UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-FIFTH CONGRESS
OF THE UNITED STATES OF AMERICA

1978

AND

PROCLAMATIONS

VOLUME 92

IN THREE PARTS

PART 3

PUBLIC LAWS 95–599 THROUGH 95–633,
REORGANIZATION PLANS,
PROPOSED AMENDMENT TO THE CONSTITUTION,
JOINT RESOLUTION, PRIVATE LAWS,
CONCURRENT RESOLUTIONS AND PROCLAMATIONS

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95-409	*Packers and Stockyards Act, 1921, amendments.* AN ACT To amend the Packers and Stockyards Act, 1921, and for other purposes	Oct. 2, 1978	886
95-410	*Customs Procedural Reform and Simplification Act of 1978.* AN ACT To provide customs procedural reform, and for other purposes	Oct. 3, 1978	888
95-411	*International Petroleum Exposition, Tulsa, Okla.* JOINT RESOLUTION Authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979	Oct. 5, 1978	906
95-412	*Immigration and Nationality Act, amendment.* AN ACT To amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy	Oct. 5, 1978	907
95-413	*Standing Bear Lake, Nebr., designation.* AN ACT To name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"	Oct. 5, 1978	910
95-414	*Smithsonian Institution, Museum of African Art, transfer.* AN ACT To authorize the Smithsonian Institution to acquire the Museum of African Art, and for other purposes	Oct. 5, 1978	911
95-415	*New York City, financial assistance.* JOINT RESOLUTION Providing financial assistance for the city of New York	Oct. 5, 1978	914
95-416	*GSA, transferred records, relating to acceptance and use.* AN ACT To amend chapter 21 of title 44, United States Code, to include new provisions relating to the acceptance and use of records transferred to the custody of the Administrator of General Services	Oct. 5, 1978	915
95-417	*Immigration and Nationality Act, amendments.* AN ACT To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children	Oct. 5, 1978	917

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95-418	*E. C. "Took" Gathings Building, Ark., designation.* AN ACT To name a certain Federal building in Jonesboro, Arkansas, the "E. C. 'Took' Gathings Building"	Oct. 5, 1978	919
95-419	*Asian/Pacific American Heritage Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"	Oct. 5, 1978	920
95-420	*Sikes Act Amendments of 1978.* AN ACT To authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981	Oct. 5, 1978	921
95-421	*Amtrak Improvement Act of 1978.* AN ACT To amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes	Oct. 5, 1978	923
95-422	*Federal Fire Prevention and Control Act of 1974, amendments.* AN ACT To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration	Oct. 5, 1978	932
95-423	*Taxes, alcoholic beverages, excise tax refund.* AN ACT To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale	Oct. 6, 1978	935
95-424	*International Development and Food Assistance Act of 1978.* AN ACT To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of United States development-related policies and programs, and for other purposes	Oct. 6, 1978	937
95-425	*Securities and Exchange Commission, appropriation authorization.* AN ACT To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes	Oct. 6, 1978	962
95-426	*Foreign Relations Authorization Act, Fiscal Year 1979.* AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes	Oct. 7, 1978	963
95-427	*Taxes, regulations on taxation of fringe benefits, prohibition.* AN ACT To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes	Oct. 7, 1978	996
95-428	*National sea grant program, appropriation authorization.* AN ACT To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes	Oct. 7, 1978	999

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95-429	*Treasury, Postal Service, and General Government Appropriations Act, 1979.* AN ACT Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1979, and for other purposes	Oct. 10, 1978	1001
95-430	*United States International Trade Commission, appropriation authorization.* AN ACT To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979	Oct. 10, 1978	1020
95-431	*Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979.* AN ACT Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979, and for other purposes	Oct. 10, 1978	1021
95-432	*Immigration and Nationality Act, amendment.* AN ACT To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes	Oct. 10, 1978	1046
95-433	*Indians, judgment funds to certain Indian tribes.* AN ACT Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes	Oct. 10, 1978	1047
95-434	*National Science Foundation Authorization Act for Fiscal Year 1979.* AN ACT To authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds	Oct. 10, 1978	1049
95-435	*Bretton Woods Agreements Act, amendments.* AN ACT To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund	Oct. 10, 1978	1051
95-436	*Roman L. Hruska Meat Animal Research Center, Nebr., designation.* AN ACT To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center"	Oct. 10, 1978	1054
95-437	*Federal Employees Part-Time Career Employment Act of 1978.* AN ACT To amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service	Oct. 10, 1978	1055
95-438	*Lt. Gen. Ira C. Eaker, medal.* AN ACT To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired)	Oct. 10, 1978	1060
95-439	*Animal and plant quarantines, certain requirements repealed.* AN ACT To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes	Oct. 10, 1978	1061
95-440	*General Records Schedules to all Federal agencies, mandatory application.* AN ACT To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents	Oct. 10, 1978	1063
95-441	*Public lands relinquishment.* AN ACT To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control	Oct. 10, 1978	1064

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95-442	*Gifts and property, acceptance and administration by Secretary of Agriculture.* AN ACT To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs	Oct. 10, 1978	1065
95-443	*Farm credit loans, repayment, extension.* AN ACT To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products	Oct. 10, 1978	1066
95-444	*Civil Rights Commission Act of 1978.* AN ACT To extend the Commission on Civil Rights for five years, to authorize appropriations for the Commission, to effect certain technical changes to comply with changes in the law, and for other purposes	Oct. 10, 1978	1067
95-445	*Humane Methods of Slaughter Act of 1978.* AN ACT To amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes	Oct. 10, 1978	1069
95-446	*Carl Hayden Bee Research Center, Ariz., designation.* AN ACT To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center"	Oct. 10, 1978	1071
95-447	*Susan B. Anthony Dollar Coin Act of 1978.* AN ACT To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes	Oct. 10, 1978	1072
95-448	*Agriculture, rural development, and related agencies appropriations, fiscal year 1979.* AN ACT Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes	Oct. 11, 1978	1073
95-449	*National Family Week, designation authorization.* JOINT RESOLUTION To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week"	Oct. 11, 1978	1094
95-450	*Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act.* AN ACT To create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area, to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park, and to add certain lands to the Oregon Islands Wilderness	Oct. 11, 1978	1095
95-451	*W. R. "Bob" Poage Pecan Field Station, Tex., designation.* AN ACT To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station"	Oct. 11, 1978	1100
95-452	*Inspector General Act of 1978.* AN ACT To reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Trasportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes	Oct. 12, 1978	1101

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95-453	*Indian Claims Commission, activities of Commissioners.* AN ACT To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office	Oct. 12, 1978	1110
95-454	*Civil Service Reform Act of 1978.* AN ACT To reform the civil service laws	Oct. 13, 1978	1111
95-455	*Great Lakes Pilotage Act of 1960, amendment.* AN ACT To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots on the Great Lakes	Oct. 13, 1978	1228
95-456	*Southwestern Power Administration, rate discrimination, prohibition..* AN ACT To prohibit discrimination in rates charged by the Southwestern Power Administration	Oct. 13, 1978	1230
95-457	*Department of Defense Appropriation Act, 1979.* AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes	Oct. 13, 1978	1231
95-458	*Internal Revenue Code of 1954, amendments.* AN ACT To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions	Oct. 14, 1978	1255
95-459	*Susanville Indian Rancheria, Calif., land in trust.* AN ACT To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land	Oct. 14, 1978	1262
95-460	*Agricultural Foreign Investment Disclosure Act of 1978.* AN ACT To require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes	Oct. 14, 1978	1263
95-461	*Drug Abuse Prevention and Treatment Amendments of 1978.* AN ACT To amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes	Oct. 14, 1978	1268
95-462	*Historic Chattahoochee Compact, Alabama-Georgia, consent of Congress.* AN ACT Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia	Oct. 14, 1978	1271
95-463	*Firefighters' Memorial Sunday, designation authorization.* JOINT RESOLUTION To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day"	Oct. 14, 1978	1276
95-464	*Anadromous Fish Conservation Act, amendment.* AN ACT To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn	Oct. 17, 1978	1278
95-465	*Department of the Interior and related agencies, appropriations, fiscal year 1979.* AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes	Oct. 17, 1978	1279

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95-466	*Jefferson F. Davis, citizenship restored posthumously.* JOINT RESOLUTION To restore posthumously full rights of citizenship to Jefferson F. Davis	Oct. 17, 1978	1304
95-467	*Water Research and Development Act of 1978.* AN ACT To promote a more adequate and responsive national program of water research and development, and for other purposes	Oct. 17, 1978	1305
95-468	*Henry R. Koen Forest Service Building, Ark., designation.* AN ACT To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building"	Oct. 17, 1978	1318
95-469	*Refuge Revenue Sharing Act, amendment.* AN ACT To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes	Oct. 17, 1978	1319
95-470	*Congressional employees, contributions to charitable organizations.* AN ACT To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations	Oct. 17, 1978	1323
95-471	*Tribally Controlled Community College Assistance Act of 1978.* AN ACT To provide for grants to tribally controlled community colleges, and for other purposes	Oct. 17, 1978	1325
95-472	*U.S. Tax Court, judges' retirement pay.* AN ACT To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court	Oct. 17, 1978	1332
95-473	*Interstate Commerce Act and related laws, enactment as title 49, Subtitle IV, U.S. Code.* AN ACT To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"	Oct. 17, 1978	1337
95-474	*Port and Tanker Safety Act of 1978.* AN ACT To amend the Ports and Waterways Safety Act of 1972, and for other purposes	Oct. 17, 1978	1471
95-475	*Intercoastal Shipping Act, 1933, amendment.* AN ACT To amend the Intercoastal Shipping Act, 1933, and for other purposes	Oct. 18, 1978	1494
95-476	*Veterans' Housing Benefits Act of 1978.* AN ACT To amend title 38, United States Code, to improve the housing benefits programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes	Oct. 18, 1978	1497
95-477	*Environmental Research Development, and Demonstration Authorization Act of 1979.* AN ACT To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes	Oct. 18, 1978	1507
95-478	*Comprehensive Older Americans Act Amendments of 1978.* AN ACT To amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes	Oct. 18, 1978	1513

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95-479	*Veterans' Disability Compensation and Survivors' Benefits Act of 1978.* AN ACT To amend title 38, United States Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes	Oct. 18, 1978	1560
95-480	*Departments of Labor and Health, Education, and Welfare Appropriations Act, 1978.* AN ACT Making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes	Oct. 18, 1978	1567
95-481	*Foreign Assistance and Related Programs Appropriations Act, 1979.* AN ACT Making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes	Oct. 18, 1978	1591
95-482	*Continuing appropriations, Fiscal Year 1979.* JOINT RESOLUTION Making continuing appropriations for the fiscal year 1979, and for other purposes	Oct. 18, 1978	1603
95-483	*Ocean Shipping Act of 1978.* AN ACT To provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes	Oct. 18, 1978	1607
95-484	*Fort Scott National Historic Site, Kans., establishment.* AN ACT To authorize establishment of the Fort Scott National Historic Site, Kansas, and for other purposes	Oct. 19, 1978	1610
95-485	*Department of Defense Appropriation Authorization Act, 1979.* AN ACT To authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes	Oct. 20, 1978	1611
95-486	*Federal district and circuit judges, additional appointments.* AN ACT To provide for the appointment of additional district and circuit judges, and for other purposes	Oct. 20, 1978	1629
95-487	*Indians, acquisition and retention of certain lands, Kake, Alaska.* AN ACT To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes	Oct. 20, 1978	1635
95-488	*Taxes, deductions for contributions to a black lung benefit trust.* AN ACT To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes	Oct. 20, 1978	1637
95-489	*Columbia Slough navigation project, Oreg., termination.* AN ACT To terminate the authorization of the navigation project on the Columbia Slough, Oregon	Oct. 20, 1978	1639

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95-490	*Hawaii, revenue or proceeds from disposition of certain lands, use.* AN ACT To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose	Oct. 20, 1978	1640
95-491	*Federal Information Centers Act.* AN ACT To authorize the permanent establishment of a system of Federal information centers	Oct. 20, 1978	1641
95-492	*Girl Scouts of America, transportation services.* AN ACT To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes	Oct. 20, 1978	1642
95-493	*United States Capitol Historical Society, incorporation.* AN ACT To incorporate the United States Capitol Historical Society	Oct. 20, 1978	1643
95-494	*Blackjack Springs Wilderness Area and Whiskey Lake Wilderness Area, Wisc., designation.* AN ACT To designate certain lands in the State of Wisconsin as wilderness	Oct. 21, 1978	1648
95-495	*Boundary Waters Canoe Area Wilderness, designation; Boundary Waters Canoe Area Mining Protection Area, establishment.* AN ACT To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes	Oct. 21, 1978	1649
95-496	*Indians, Osage Tribe, Okla.* AN ACT To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes	Oct. 21, 1978	1660
95-497	*Taxes, New York public employees, retirement systems.* AN ACT Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions	Oct. 21, 1978	1665
95-498	*Pueblo Indians of Santa Ana, N. Mex., lands in trust.* AN ACT To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands	Oct. 21, 1978	1672
95-499	*Pueblo Indians of Zia, N. Mex., lands in trust.* AN ACT To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands.	Oct. 21, 1978	1679
95-500	*Machine parts, duty suspension.* AN ACT To make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes	Oct. 21, 1978	1683
95-501	*Agricultural Trade Act of 1978.* AN ACT To strengthen the economy of the United States through increased sales abroad of United States agricultural commodities	Oct. 21, 1978	1685
95-502	*Internal Revenue Code of 1954, amendment.* AN ACT To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes	Oct. 21, 1978	1693
95-503	*Courts, transportation expenses.* AN ACT To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district	Oct. 24, 1978	1704

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95-504	*Airline Deregulation Act of 1978.* AN ACT To amend the Federal Aviation Act of 1958, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes	Oct. 24, 1978	1705
95-505	*Great Lakes vessels, financing.* AN ACT To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel	Oct. 24, 1978	1755
95-506	*Federal Property and Administrative Services Act of 1949, amendment.* AN ACT To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies	Oct. 24, 1978	1756
95-507	*Small Business Act and the Small Business Investment Act of 1958, amendment.* AN ACT To amend the Small Business Act and the Small Business Investment Act of 1958	Oct. 24, 1978	1757
95-508	*Metal articles, duty suspension.* AN ACT To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes	Oct. 24, 1978	1774
95-509	*Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979.* AN ACT To authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes	Oct. 24, 1978	1775
95-510	*Small Business Act, amendment.* AN ACT To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes	Oct. 24, 1978	1780
95-511	*Foreign Intelligence Surveillance Act of 1978.* AN ACT To authorize electronic surveillance to obtain foreign intelligence information	Oct. 25, 1978	1783
95-512	*Comptroller General Annuity Adjustment Act of 1978.* AN ACT To provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes	Oct. 25, 1978	1799
95-513	*Vietnam Veterans Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week"	Oct. 25, 1978	1802
95-514	*Public Rangelands Improvement Act of 1978.* AN ACT To improve the range conditions of the public rangelands	Oct. 25, 1978	1803
95-515	*Interstate Horseracing Act of 1978.* AN ACT To regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes	Oct. 25, 1978	1811
95-516	*Eastern Telephone Supply and Manufacturing, Inc., natural graphite, duty suspension.* AN ACT For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters	Oct. 25, 1978	1816
95-517	*Naval paintings, return to Federal Republic of Germany.* AN ACT To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II	Oct. 25, 1978	1817

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95-518	*Gathright Dam and Lake Moomaw, Va.* AN ACT Designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw	Oct. 25, 1978	1818
95-519	*Federal employees, certain legislative and judicial officers, leave status.* AN ACT To clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes	Oct. 25, 1978	1819
95-520	*Veterans' Administration Programs Extension Act of 1978.* AN ACT To amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes	Oct. 26, 1978	1820
95-521	*Ethics in Government Act of 1978.* AN ACT To establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes	Oct. 26, 1978	1824
95-522	*Frederick G. Payne Building, Maine, designation.* AN ACT To name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building"	Oct. 27, 1978	1886
95-523	*Full employment and Balanced Growth Act of 1978.* AN ACT To translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government	Oct. 27, 1978	1887
95-524	*Comprehensive Employment and Training Act Amendments of 1978.* AN ACT To amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes	Oct. 27, 1978	1909
95-525	*Charles A. Lindberg Federal Building, N.Y., designation.* AN ACT To designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building"	Oct. 27, 1978	2022
95-526	*District of Columbia Self-Government and Governmental Reorganization Act, amendment.* AN ACT To amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes	Oct. 27, 1978	2023
95-527	*William L. Springer Building, Ill., designation.* AN ACT To designate a certain Federal building in Champaign, Illinois, the "William L. Springer Building"	Oct. 27, 1978	2025
95-528	*Omar Burleson Federal Building, Tex., designation.* AN ACT To designate the "Omar Burleson Federal Building"	Oct. 27, 1978	2026

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95-529	*George Mahon Federal Building, Tex., designation.* AN ACT To designate the "George Mahon Federal Building"	Oct. 27, 1978	2027
95-530	*U.S. attorneys and marshals, residence requirement, exemption.* AN ACT To amend title 28 of the United States Code to provide that the requirement that each United States attorney and United States marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district	Oct. 27, 1978	2028
95-531	*Leslie C. Arends Building, Ill., designation.* AN ACT To designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building"	Oct. 27, 1978	2029
95-532	*Paul G. Rogers Federal Building, Fla., designation.* AN ACT To designate the "Paul G. Rogers Federal Building"	Oct. 27, 1978	2030
95-533	*New Mexico Constitution, amendment.* JOINT RESOLUTION To consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State	Oct. 27, 1978	2031
95-534	*Federal Reserve banks, authority extension.* JOINT RESOLUTION To extend the authority of the Federal Reserve banks to buy and sell certain obligations	Oct. 27, 1978	2032
95-535	*U.S. Courts, fees, per diem and mileage expenses for witnesses.* AN ACT To establish fees and allow per diem and mileage expenses for witnesses before United States courts	Oct. 27, 1978	2033
95-536	*New Hampshire-Vermont Interstate School Compact, amendment.* AN ACT To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21	Oct. 27, 1978	2035
95-537	*Contract Services for Drug Dependent Federal Offenders Act of 1978.* AN ACT To enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner	Oct. 27, 1978	2038
95-538	*Justice William O. Douglas Federal Building, Wash., designation.* AN ACT To rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building"	Oct. 27, 1978	2039
95-539	*Court Interpreters Act.* AN ACT To provide more effectively for the use of interpreters in courts of the United States, and for other purposes	Oct. 28, 1978	2040
95-540	*Privacy Protection for Rape Victims Act of 1978.* AN ACT To amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims	Oct. 28, 1978	2046
95-541	*Antarctic Conservation Act of 1978.* AN ACT To implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes	Oct. 28, 1978	2048
95-542	*C. Bascom Slemp Building, Va., designation.* AN ACT To designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building"	Oct. 28, 1978	2058
95-543	*Joe Skubitz Social Security Administration Center, Kans., designation.* AN ACT To designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center"	Oct. 28, 1978	2059
95-544	*John J. Flynt, Jr., Federal Building, Ga., designation.* AN ACT To designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building"	Oct. 28, 1978	2060

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95-545	*Joe Waggonner Federal Building, La., designation.* AN ACT To name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building"	Oct. 28, 1978	2061
95-546	*Great Bear Wilderness, Mont., designation.* AN ACT To designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana	Oct. 28, 1978	2062
95-547	*Food and Agriculture Act of 1977, amendment.* AN ACT To amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research	Oct. 28, 1978	2063
95-548	*Library of Congress James Madison Memorial Building, additional authorization.* AN ACT To amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building	Oct. 30, 1978	2064
95-549	*Immigration and Nationality Act, amendment.* AN ACT To amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes	Oct. 30, 1978	2065
95-550	*University of New Mexico, land conveyance.* AN ACT To provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico	Oct. 30, 1978	2067
95-551	*U.S. Military Academy, N.Y., permanent faculty structure, modernization.* AN ACT To amend title 10, United States Code, to modernize the permanent faculty structure at the United States Military Academy, and for other purposes	Oct. 30, 1978	2069
95-552	*Migratory-bird hunting and conservation stamps, price increase.* AN ACT To increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes	Oct. 30, 1978	2071
95-553	*North Pacific Fisheries Act of 1954, amendment.* AN ACT To make technical corrections in the North Pacific Fisheries Act of 1954	Oct. 30, 1978	2072
95-554	*Mineral Leasing Act of 1920, amendment.* AN ACT To further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes	Oct. 30, 1978	2073
95-555	*Pregnancy sex discrimination, prohibition.* AN ACT To amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy	Oct. 31, 1978	2076
95-556	*Territory of American Samoa, nonvoting delegate to U.S. House of Representatives.* AN ACT To provide that the Territory of American Samoa be represented by a nonvoting Delegate to the United States House of Representatives, and for other purposes	Oct. 31, 1978	2078
95-557	*Housing and Community Development Amendments of 1978.* AN ACT To amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes	Oct. 31, 1978	2080
95-558	*Rulemaking procedures report, filing deadline, extension.* AN ACT To amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures	Nov. 1, 1978	2130

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95-559	*Health Maintenance Organization Amendments of 1978.* AN ACT To amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations	Nov. 1, 1978	2131
95-560	*Mrs. Robert F. Kennedy, gold medal presentation, authorization.* AN ACT Authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy	Nov. 1, 1978	2142
95-561	*Education Amendments of 1978.* AN ACT To extend and amend expiring elementary and secondary education programs, and for other purposes	Nov. 1, 1978	2143
95-562	*Perishable Agricultural Commodities Act, amendment.* AN ACT To amend the Perishable Agricultural Commodities Act	Nov. 1, 1978	2381
95-563	*Contract Disputes Act of 1978.* AN ACT To provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies	Nov. 1, 1978	2383
95-564	*Communications Satellite Act of 1962, amendment.* AN ACT To provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services	Nov. 1, 1978	2392
95-565	*United States Railway Association Amendments Act of 1978.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes	Nov. 1, 1978	2397
95-566	*Middle Income Student Assistance Act.* AN ACT To amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students	Nov. 1, 1978	2402
95-567	*Public Telecommunications Financing Act of 1978.* AN ACT To amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes	Nov. 2, 1978	2405
95-568	*Economic Opportunity Amendments of 1978.* AN ACT To amend the Economic Opportunity Act of 1964, and for other purposes	Nov. 2, 1978	2425
95-569	*Smithsonian Institution, construction of support museum facilities.* AN ACT To authorize the Smithsonian Institution to construct support museum facilities	Nov. 2, 1978	2444
95-570	*White House Office and Executive Residence, personnel employment.* AN ACT To clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes	Nov. 2, 1978	2445
95-571	*Minnesota Chippewa Indians, Mille Lacs Band, land acquisition.* AN ACT To authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians	Nov. 2, 1978	2452
95-572	*Jury System Improvements Act of 1978.* AN ACT To amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service	Nov. 2, 1978	2453

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95-573	*District courts.* AN ACT To amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York	Nov. 2, 1978	2458
95-574	*Federal Railroad Safety Authorization Act of 1978.* AN ACT To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes	Nov. 2, 1978	2459
95-575	*Cigarettes, sale and distribution racketeering, elimination.* AN ACT To amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes	Nov. 2, 1978	2463
95-576	*Federal Water Pollution Control Act, amendment.* AN ACT To amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act	Nov. 2, 1978	2467
95-577	*Rayburn Office Building and House Annex No. 2, solar collector installation.* AN ACT To authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes	Nov. 2, 1978	2470
95-578	*Reclamation Safety of Dams Act of 1978.* AN ACT To authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes	Nov. 2, 1978	2471
95-579	*Immigration and Nationality Act, amendment, Eugenia Cortes, relief.* AN ACT Amending section 312 of the Immigration and Nationality Act	Nov. 2, 1978	2474
95-580	*Rural Transportation Advisory Task Force, establishment.* AN ACT To establish a Rural Transportation Advisory Task Force, and for other purposes	Nov. 2, 1978	2475
95-581	*Marine Corps, Sergeant Major, retired pay recalculation.* AN ACT To provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967	Nov. 2, 1978	2478
95-582	*Subpoenas, nationwide service in certain suits.* AN ACT To provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes	Nov. 2, 1978	2479
95-583	*Federal employees, life and health insurance benefits.* AN ACT To amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes	Nov. 2, 1978	2481
95-584	*Religious corporations, limitation on land holdings, repeal.* AN ACT To repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States	Nov. 2, 1978	2483
95-585	*Miller Act, amendment.* AN ACT To amend the Act commonly known as the Miller Act to raise the dollar amount of contracts to which such Act applies from $2,000 to $25,000	Nov. 2, 1978	2484
95-586	*Land conveyances, validation.* AN ACT To validate certain land conveyances, and for other purposes	Nov. 3, 1978	2485
95-587	*Riverside County, Calif., land claims by U.S.* AN ACT To amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion, and for other purposes	Nov. 3, 1978	2496

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95-588	*Veterans' and Survivors' Pension Improvement Act of 1978.* AN ACT To amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes	Nov. 4, 1978	2497
95-589	*Uniformed Services University of the Health Sciences, members, Board of Regents, service after term expires.* AN ACT To amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed	Nov. 4, 1978	2512
95-590	*Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978.* AN ACT To provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies	Nov. 4, 1978	2513
95-591	*Presidential Records Act of 1978.* AN ACT To amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes	Nov. 4, 1978	2523
95-592	*Native Latex Commercialization and Economic Development Act of 1978.* AN ACT To amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States	Nov. 4, 1978	2529
95-593	*Overseas Citizens Voting Rights Act of 1975, amendment.* AN ACT To improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes	Nov. 4, 1978	2535
95-594	*96th Congress, first session.* JOINT RESOLUTION Relative to the convening of the first session of the Ninety-sixth Congress, and for other purposes	Nov. 4, 1978	2540
95-595	*Budget and Accounting Procedures Act of 1950, amendment.* AN ACT To amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes	Nov. 4, 1978	2541
95-596	*Pension Building, D.C., restoration and renovation.* JOINT RESOLUTION To initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes	Nov. 4, 1978	2544

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95-597	*Regional Rail Reorganization Act of 1973, amendment.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such Act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization	Nov. 4, 1978	2547
95-598	*Title 11, USC, bankruptcy.* AN ACT To establish a uniform Law on the Subject of Bankruptcies	Nov. 6, 1978	2549
95-599	*Surface Transportation Assistance Act of 1978.* AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes	Nov. 6, 1978	2689
95-600	*Revenue Act of 1978.* AN ACT To amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes	Nov. 6, 1978	2763
95-601	*Nuclear Regulatory Commission, appropriation authorization.* AN ACT To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes	Nov. 6, 1978	2947
95-602	*Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.* AN ACT To amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes	Nov. 6, 1978	2955
95-603	*Federal Physicians Comparability Allowance Act of 1978.* AN ACT To amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians	Nov. 6, 1978	3018
95-604	*Uranium Mill Tailings Radiation Control Act of 1978.* AN ACT To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes	Nov. 8, 1978	3021
95-605	*Toiyabe National Forest, Nev., boundaries extension.* AN ACT To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes	Nov. 8, 1978	3044
95-606	*Amateur Sports Act of 1978.* AN ACT To promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes	Nov. 8, 1978	3045
95-607	*Department of Transportation Act, amendment.* AN ACT To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes	Nov. 8, 1978	3059
95-608	*Indian Child Welfare Act of 1978.* AN ACT To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes	Nov. 8, 1978	3069

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95-609	*Quiet Communities Act of 1978.* AN ACT To extend provisions of the Noise Control Act of 1972 for one year, and for other purposes	Nov. 8, 1978	3079
95-610	*Armed Forces, union organizations, prohibition.* AN ACT To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes	Nov. 8, 1978	3085
95-611	*United States Railway Association, appropriation authorization.* AN ACT To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979	Nov. 8, 1978	3089
95-612	*Exchange Stabilization Fund.* AN ACT To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses, and for other purposes	Nov. 8, 1978	3091
95-613	*Public Health Service Act, amendment.* AN ACT To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act	Nov. 8, 1978	3093
95-614	*Cibola National Forest, N. Mex., boundary extension.* AN ACT To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes	Nov. 8, 1978	3095
95-615	*Tax Treatment Extension Act of 1977.* AN ACT To change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes	Nov. 8, 1978	3097
95-616	*Fish and Wildlife Improvement Act of 1978.* AN ACT To improve the administration of fish and wildlife programs, and for other purposes	Nov. 8, 1978	3110
95-617	*Public Utility Regulatory Policies Act of 1978.* AN ACT To suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics	Nov. 9, 1978	3117
95-618	*Energy Tax Act of 1978.* AN ACT To provide tax incentives for the production and conservation of energy, and for other purposes	Nov. 9, 1978	3174
95-619	*National Energy Conservation Policy Act.* AN ACT For the relief of Jack R. Misner	Nov. 9, 1978	3206
95-620	*Powerplant and Industrial Fuel Use Act of 1978.* AN ACT To amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges	Nov. 9, 1978	3289
95-621	*Natural Gas Policy Act of 1978.* AN ACT For the relief of Joe Cortina of Tampa, Florida	Nov. 9, 1978	3350
95-622	*Community Mental Health Centers Act, amendments.* AN ACT To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes	Nov. 9, 1978	3412
95-623	*Health Services Research, Health Statistics, and Health Care Technology Act of 1978.* AN ACT To amend the Public Health Service Act to revise and extend the authorities under that Act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes	Nov. 9, 1978	3443

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95-624	*Department of Justice Appropriation Authorization Act, Fiscal Year 1979.* AN ACT To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes	Nov. 9, 1978	3459
95-625	*National Parks and Recreation Act of 1978.* AN ACT To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho	Nov. 10, 1978	3467
95-626	*Health Services and Centers Amendments of 1978.* AN ACT To amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes	Nov. 10, 1978	3551
95-627	*Child Nutrition Amendments of 1978.* AN ACT To extend and amend the special supplemental food program and the child care food program, and for other purposes	Nov. 10, 1978	3603
95-628	*Internal Revenue Code of 1954, amendment.* AN ACT To revise miscellaneous timing requirements of the revenue laws, and for other purposes	Nov. 10, 1978	3627
95-629	*Pennsylvania Avenue Development Corporation Act of 1972, amendment.* AN ACT To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes	Nov. 10, 1978	3635
95-630	*Financial Institutions Regulatory and Interest Rate Control Act of 1978.* AN ACT To extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions	Nov. 10, 1978	3641
95-631	*Consumer Product Safety Act, amendment.* AN ACT To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes	Nov. 10, 1978	3742
95-632	*Endangered Species Act Amendments of 1978.* AN ACT To amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions	Nov. 10, 1978	3751
95-633	*Psychotropic Substances Act of 1978.* AN ACT To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes	Nov. 10, 1978	3768

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95-30	*Young-soon Choi.* AN ACT For for the relief of Young-soon Choi	Mar. 27, 1978	3803
95-31	*Mrs. Desolina Sciulli.* AN ACT For the relief of Mrs. Desolina Sciulli	Mar. 27, 1978	3804
95-32	*Meda Abilay Florin.* AN ACT For the relief of Meda Abilay Florin	Mar. 27, 1978	3804
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95-34	*Mrs. Chong Sun Yi Rauch.* AN ACT For the relief of Mrs. Chong Sun Yi Rauch	Mar. 27, 1978	3805
95-35	*Kwi Sok Buckingham (nee Kim).* AN ACT For the relief of Kwi Sok Buckingham (nee Kim)	Mar. 27, 1978	3805
95-36	*Ernesto F. Garcia, Jr.* AN ACT For the relief of Ernesto F. Garcia, Junior	May 12, 1978	3806
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95-39	*Charles P. Abbott.* AN ACT For the relief of Charles P. Abbott	June 10, 1978	3807
95-40	*Young Hee Kim Kang and children.* AN ACT For the relief of Young Hee Kim Kang and her children, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang	June 19, 1978	3807
95-41	*William H. Klusmeier.* AN ACT For the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Texas	June 26, 1978	3808
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(CONTINUED)

PUBLIC LAWS

(CONTINUED)

Public Law 95-599
95th Congress

An Act

To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

Nov. 6, 1978
[H.R. 11733]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

Surface Transportation Assistance Act of 1978.
23 USC 101 note.

TITLE I

SHORT TITLE

Sec. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

Federal-Aid Highway Act of 1978.
23 USC 101 note.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

Sec. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1983, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1990.".

23 USC 101 note.

(b) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding at the end thereof the following: "Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

Sec. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors

23 USC 104 note.

contained in revised table 5 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

Appropriation authorization.

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $1,550,000,000 for the fiscal year ending September 30, 1979, $1,700,000,000 for the fiscal year ending September 30, 1980, $1,800,000,000 for the fiscal year ending September 30, 1981, and $1,500,000,000 for the fiscal year ending September 30, 1982. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $500,000,000 for the fiscal year ending September 30, 1979, $550,000,000 for the fiscal year ending September 30, 1980, $600,000,000 for the fiscal year ending September 30, 1981, and $400,000,000 for the fiscal year ending September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For the forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal

year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

23 USC 215 note.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

23 USC 101 *et seq.*

(13) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(14) For the Northeast corridor demonstration program under section 322 of title 23, United States Code, $45,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980.

(15) For the Great River Road $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(16) For control of outdoor advertising under section 131 of title 23, United States Code $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(17) For safer off-system roads under section 219 of title 23, United States Code, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

23 USC 104 note.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

87 Stat. 278.

(2) In addition to funds otherwise authorized, $85,000,000, out of the Highway Trust Fund, is hereby authorized for the purpose of completing routes designated under the urban high density traffic program prior to May 5, 1976. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such $125,000,000 of each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for primary system routes, and available for obligation for the same periods as such apportionment.

(d)(1) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

Appropriation authorization.

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 per fiscal year for each of the fiscal years ending September 30, 1982 and September 30, 1983. Such sums shall be obli-

Excess funds, certification and transfer.

gated for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not on toll roads, except that where a State certifys to the Secretary that any part of such sums are excess to the needs of such State for resurfacing, restoring or rehabilitating Interstate System lanes and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1). Such sums may also be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.

Toll roads, agreement.

Federal assistance, repayment.

DEFINITIONS

Sec. 106. (a) The definition of "construction" in section 101(a) of title 23 of the United States Code is amended by adding at the end thereof the following new sentence: "The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.".

(b)(1) The definition of "forest road or trail" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest or trail' means a road or trail wholly or partly within, or adjacent to, and serving the Natonal Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.".

(2) The definition of "forest development roads and trails" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service.".

(3) The definition of "forest highway" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.".

(4) Section 101(a) of title 23, United States Code, is amended by adding after the definition of the term "Federal-aid highways" the following new definition:

"The term 'highway safety improvement project' means a project which corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.".

COMPLETION OF INTERSTATE SYSTEM

SEC. 107. (a)(1) The fourth and fifth sentences of paragraph (2) of subsection (e) of section 103, of title 23, United States Code, are amended to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

Federal share.

(2) The fourth sentence of section 103(e)(4) of title 23, United States Code, is amended to read as follows: "The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof.".

(b) Paragraph (4) of subsection (e) of section 103, title 23, United States Code, is amended by inserting immediately after the second sentence the following: "Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction", and by adding at the end of such paragraph the following new sentences: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law."

49 USC 1602.

Contracts and agreements, revisions.
23 USC 103 note.

(c) The amendment made by subsection (a) of this section shall apply to each route or portion thereof designated under section 103 (e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.

Environmental impact statement, requirement.
23 USC 103 note.

(d) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

42 USC 4321 note.

Contract requirement.
23 USC 103 note.

(e) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) and all Interstate substitute projects pursuant to subsection (e)(4) of section 103 of title 23, United States Code (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection and in the case of a substitute project the Secretary shall withdraw approval and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code.

Noncompliance.

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out "In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System so long as said sums were applied to a transportation project permissible under this title.".

(B) by redesignating paragraph (5) as paragraph (7); and

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection.

23 USC 103 note.

INTERSTATE COST ESTIMATES

SEC. 108. Section 104(b)(5)(A) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

TRANSFERABILITY

SEC. 109. (a) Paragraph (1) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "40" each place it appears and inserting in lieu thereof at each such place "50".

(b) Paragraph (2) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "20" each place it appears and inserting in lieu thereof at each such place "50".

REPORT OF OBLIGATIONS

Monthly submittals to Congress.

SEC. 110. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.".

PROGRAM REQUIREMENTS

Selection, consultation.

SEC. 111. Subsection (b) of section 105 of title 23, United States Code, is amended to read as follows:

"(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.".

PROGRAMS

SEC. 112. Subsection (g) of section 105 of title 23, United States Code, is amended by striking out "public airports and public ports for water transportation," and inserting in lieu thereof "public airports, public ports for water transportation, new town communities, and new town-intown communities,".

UTILITIES ON RIGHTS-OF-WAY

SEC. 113. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) (1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

"(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect any aspect of safety;

"(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

"(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

"(2) For the purpose of this subsection—

Definitions.

"(A) the term 'utility facility' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

"(B) the term 'right-of-way' means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.".

ACCESS TO RIGHTS-OF-WAY

SEC. 114. Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

Sums apportioned, availability.

SEC. 115. (a) Section 118(b) of title 23, United States Code, is amended by striking the second and third sentences and inserting in lieu thereof the following sentences: "Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) in the case of construction work, begin work within ninety days of obligation. Sums made available under this subsection shall remain available until expended.

Bond retirement, payment to States.

(b) Section 122 of title 23, United States Code, is amended by striking out "the retirement of the principal of such bonds", and by inserting in lieu thereof the following: "the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System"; and by striking out "This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds." and inserting in lieu thereof the following: "This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.".

23 USC 122 note.

(c) No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act, unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.

Certification.

INTERSTATE RESURFACING

SEC. 116. (a) Chapter 1 of title 23 of the United States Code is amended by inserting immediately after section 118 the following new section:

23 USC 119.

Project approval.

"§ 119. Interstate System resurfacing

"(a) Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(a) of this title.

Ante, p. 2692.

Post, p. 2699.
23 USC 120.

Program, certification and compliance.
Post, p. 2699.

"(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on October 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the

Apportionment reduction, determination.

Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the funds apportioned to such State for that fiscal year for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.".

(b) The material following the colon in section 104(b)(5)(B) of title 23, United States Code, is amended to read as follows:

"Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.". *Ante*, p. 2692.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"119. Repealed."

and inserting in lieu thereof:

"119. Interstate System resurfacing.".

(d) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following subsection:

Interstate System maintenance, guidelines.

"(m) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.".

TRAFFIC CONTROL SIGNALIZATION

SEC. 117. Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization,".

ADVANCES TO STATES

SEC. 118. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

Determination.

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary

23 USC 129.

23 USC 129.

Federal share excess, repayment.

shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Interest rate.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.".

23 USC 103.

EMERGENCY RELIEF

SEC. 119. The second sentence of subsection 125(a) of title 23, United States Code, is amended by—

(1) inserting the words "prior to the fiscal year ending September 30, 1978," immediately after "(2)"; and

(2) inserting the following words before the period at the end of the sentence: ", and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund".

TOLL BRIDGES STUDY

Federal funding.

23 USC 301.

SEC. 120. Section 129 of title 23, United States Code, is amended by adding a new subsection (i) as follows:

"(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a state or political subdivision thereof."

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 121. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the Interstate

System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.". "Free coffee."

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (g) of section 131, title 23, United States Code, is amended by striking the period at the end of the first sentence and adding the following "and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.".

(b) Subsection (k) of section 131, title 23, United States Code, is amended by striking the first word and inserting in lieu thereof the following: "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing".

(c) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices," the following: "including those which may be changed at reasonable intervals by electronic process or by remote control,".

(d) Subsection (j) of section 131 of title 23, United States Code, is amended by inserting immediately after "agreement" at the end of the first sentence, the following: ": *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder.".

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 123. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereunder referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

Inventory, consultation.
23 USC 141 note.

Annual report.

(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

Inventory, consultation.

Annual report.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation. "Special permit."

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits

Annual report and recommendations to Congress.

required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of requirements.

Certifications.

23 USC 154.
23 USC 106.

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

23 USC 127.

State verification information, regulations.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

Funds, reduction and witholding.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

23 USC 104.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.".

23 USC 141 note.

(e) Section 141(c)(2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

SEC. 124. (a) Section 144 of title 23 of the United States Code is amended to read as follows:

"§ 144. Highway bridge replacement and rehabilitation program

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

Inventory, consultation.

Classification.

Cost determination.

"(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

Inventory, consultation.

Classification.

Cost determination.

"(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

Inventory.

"(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

Assistance to States, approval.

Eligibility determination.

"(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing or rehabilitating such bridge with a comparable facility. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

Funds, apportionment.

"(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives.

Federal share.

"(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof.

Appropriation authorization.

"(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal aid system when he determines that such State has inadequate needs to justify such expenditure.

Reduction, consultation.

“(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

33 USC 525.
33 USC 401.

Annual reports.

“(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

“(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

Review.

“(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

Report and legislative recommendations to Congress.

“(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

"Rehabilitate."

"(m) As used in this section the term 'rehabilitate' in any of its forms means major repairs necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"144. Special bridge replacement program."

and inserting in lieu thereof:

"144. Highway bridge replacement and rehabilitation program.".

23 USC 144 note.

(c) The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section.

(d) Subsection (d) of section 116 of title 23, United States Code, is amended (1) by striking out "on any of the Federal-aid highway system" at the end of the first sentence, and (2) by striking out "on the Federal-aid system" at the end of the last sentence.

SPUR HIGHWAYS—GREAT RIVER ROAD

Construction authorization.

SEC. 125. (a) Section 148 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.".

(b) Section 148(a)(5) of title 23, United States Code, is amended to read as follows:

> "(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.".

CARPOOLS AND VANPOOLS

SEC. 126. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 145 the following new section:

23 USC 146.

"§ 146. Carpool and vanpool projects

"(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing

23 USC 104. "Carpool." highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term 'carpool' includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

Repeals. 23 USC 101 note. 23 USC 101 note. 23 USC 101 note. (b) Section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239), section 120 of the Federal-Aid Highway Amendments of 1974 (Public Law 93-643), and section 143 of the Federal-Aid Highway Act of 1976 (Public Law 94-280), are repealed.

49 USC 303. (c) Section 203(b)(7a) of part II of the Interstate Commerce Act is amended by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

23 USC 146 note. Assistance. (d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

Grants and loans. (e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. Federal share. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

Appropriation authorization. (f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code, which will have an adverse effect on any mass transportation system.

(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980.

Administration study and plan.

Submittal to Congress.

PAVEMENT MARKING

Funds, allocation.

SEC. 127. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.".

BRIDGES ON DAMS

SEC. 128. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$50,000,000" and inserting in lieu thereof "$65,000,000".

23 USC 320 note.

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.

FEDERAL SHARE

SEC. 129. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "75 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(d) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(e) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(f) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "100 per centum".

(g) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not exceed 70 per centum" and inserting in lieu thereof "section shall not exceed 75 per centum".

23 USC 120 note.

(h) The amendments made by subsections (a) through (g) of this section shall take effect with respect to obligations incurred after the date of enactment of this section.

Federal share.

(i) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.".

BALTIMORE-WASHINGTON PARKWAY

84 Stat. 1739.

SEC. 130. Section 146(a) of the Federal-Aid Highway Act of 1970 is amended (1) by striking out "to six lanes" and (2) by striking out "for the National System of Interstate and Defense Highways" and inserting in lieu thereof a comma and "agreed upon by the Secretary of Transportation and the Secretary of Transportation of the State of Maryland, which preserve the Parkway characteristics".

MULTIMODAL CONCEPT

87 Stat. 272.

SEC. 131. Section 143 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following new subsection:

Appropriation authorization.

"(c) Based upon the report submitted to Congress under subsection (b) of this section, the Secretary of Transportation is authorized to provide for the preparation of preliminary engineering and design plans and the construction of models in connection with the development of the multimodal concept along the route described in paragraph (1) of subsection (a) of this section. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $9,000,000 to carry out this subsection.".

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

23 USC 142 note.

SEC. 132. Subsection (a) of section 147 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.".

FRANCONIA NOTCH, NEW HAMPSHIRE

Appropriation authorization.

SEC. 133. Section 158 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "Upon approval by the Secretary of such Franconia Notch parkway, there is authorized to be appropriated to the State of New Hampshire, out of the Highway Trust Fund, an amount equal to 90 per centum of the difference between the cost of such parkway as established in the 1979 Interstate System cost estimate and the cost of constructing a four-lane Interstate System highway at that location as such cost would be established in such 1979 cost estimate if such Interstate System highway were to be constructed. The funds authorized by the preceding sentence shall be available only for expenditure on highways on any of the Federal-aid highway systems, other than the Interstate System, which serve as alternative routes around Franconia Notch. Such funds shall be available in the same manner and to the same extent as any of the funds authorized by section 104(b)(1) of the Federal-Aid Highway Act of 1978, shall be available until expended, and shall be subject to all other applicable provisions of chapter 1 of title 23, United States Code.". *Ante*, p. 2691.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

SEC. 134. (a)(1) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended by adding immediately after subsection (l) the following new subsection: **23 USC 130 note.**

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.".

(2) Existing subsections (m), (n), (o), and (p) of such section 163 are relettered as (n), (o), (p), and (q), respectively, including any references thereto.

(b) Subsection (n) (as relettered by this section) of section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93-87) is amended to read as follows:

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.". **Federal share.**

(c) Subsection (p) (relettered by this section) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: $51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, except that".

(d) Title III of the National Mass Transportation Systems Act of 1974 (Public Law 93-503) is hereby repealed. **Repeal. 49 USC 1605 note.**

OVERSEAS HIGHWAY

SEC. 135. Section 118(b) of the Federal-Aid Highway Amendments of 1974 (88 Stat. 2288, Public Law 93-643), as amended, is amended by striking "$109,200,000" and inserting in lieu thereof "$118,000,000".

ACCELERATION OF PROJECTS

SEC. 136. Section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444-445) is amended by adding at the end thereof the following new sentence: "Not later than six months after the completion of **Report to Congress. 23 USC 124 note.**

such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.".

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

23 USC 101 note.

SEC. 137. (a) Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979,".

Expenses.

(b)(1) Subsection (h)(1) of section 154 of the Federal Aid Highway Act of 1976 is amended by inserting after the second sentence thereof the following new sentence: "The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on May 5, 1976.

APPALACHIAN DEVELOPMENT HIGHWAYS

Federal share.
40 USC app. 201.

SEC. 138. (a) Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"(f) Federal assistance to any construction project under this section shall not exceed 80 per centum of the costs of such project.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking out "two thousand nine hundred miles." and inserting in lieu thereof "three thousand and twenty-five miles.".

40 USC app. 201 note.

33 USC 701s.

Federal share.

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially zoned area containing not less than seventy commercial and industrial establishments which is authorized under section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway.

USE OF TOLL RECEIPTS

SEC. 139. The second sentence of subsection (b) of section 2 of the Act entitled "An Act granting the consent of Congress to the State of

California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and new approaches to the San Mateo Bridge in the San Francisco Bay Area.".

46 Stat. 1192.

ROUTE DESIGNATION

SEC. 140. Notwithstanding the amendments made by section 107(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of enactment of this Act, designate as routes on the National System of Interstate and Defense Highways 20.5 miles of existing State Route 11 in the city of Los Angeles, California, between FAI Route 10 and State Route 47/Community of San Pedro, 4.2 miles of the proposed Lockport Expressway in the town of Amherst, Erie County, New York, and 5.1 miles of proposed Interstate Route I–481, connecting Exit 34–A of I–90 to the Bear Road Interchange of I–81 in Onondaga County, New York.

BICYCLE PROGRAM

Definitions.
23 USC 217 note.

SEC. 141. (a) For the purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a new or improved lane, path, or shoulder, a traffic control device, lighting, or a shelter or parking facility for bicycles;

(3) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

Bikeway design and construction standards, regulations.

(b) The Secretary shall, by regulation, establish design and construction standards for bikeway construction projects for which grants are authorized in subsection (c) and section 217 of title 23, United States Code. Such regulations shall contain criteria for pavements, adequate widths, sight distances and lighting; appropriate design speeds and grades; and such other requirements as the Secretary may deem necessary.

Grants.

(c) The Secretary is authorized to make grants to States and to political subdivisions thereof for (1) the construction of bikeways which (A) comply with regulations promulgated pursuant to subsection (b), or (B) prior to promulgation of such regulations, reflect current state of the Art design standards, or (2) nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles. Projects in urban areas financed with grants under this subsection shall be in accordance with the continuing, comprehensive planning process in section 134 of title 23, United States Code.

Federal share.

(d) The Federal share of any project or program for which a grant is made under subsection (c) shall not exceed 75 per cent.

(e) Grants made under this section shall be in addition to any sums available for bicycle projects under section 217 of title 23, United States Code.

(f) Section 109(f) of title 23, United States Code, is amended by adding after the words "median strips,", the following: "bikeways,".

(g) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.".

Construction.

(h) Section 217(a) of title 23, United States Code, is amended to read as follows:

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles; and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.".

23 USC 104.

Appropriation authorization.
23 USC 217 note.

(i) There is authorized to be appropriated to the Secretary to carry out subsection (c), for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, out of the Highway Trust Fund $10,000,000, and $10,000,000 out of any other money in the Treasury not otherwise appropriated.

RAIL OPERATION PROJECTS IN NONHIGHWAY AREAS

Federal financial assistance, approval.

SEC. 142. (a) The Secretary may approve for Federal financial assistance from funds apportioned for the Federal-aid primary system under section 104(b)(1) of title 23, United States Code, projects to provide such assistance for the operation of those portions of the Alaska Railroad from Whittier to Portage, Alaska, for the purpose of linking up highways or other transportation modes receiving Federal financial assistance from funds apportioned under such section. Not more than 5 per centum of the funds apportioned for the Federal-aid primary system under section 104(b)(1) of title 23, United States Code shall be expended in any fiscal year under this section. Any such approval shall be subject to the conditions that—

Conditions.

(1) fares or other charges made in such operations shall be under the control of a Federal or State agency or official; and

(2) all revenues derived from operation of such portions shall be used to pay for the cost of construction or acquisition of the railroad (including equipment) involved in such operation, debt service thereon, and actual and necessary costs of operation, maintenance, repair, and replacement.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of title 23, United States Code, except those provisions which the Secretary determines are inconsistent with this section.

INTERSTATE ROUTE I-90

SEC. 143. (a) Notwithstanding section 129 of title 23, United States Code, or any regulation or agreement to the contrary, the Secretary of Transportation is authorized to approve projects on the Interstate

System for the construction of approaches and interchanges connecting route I-88 to route I-90 if all lanes on I-90 between exits 25 and 26 are free of tolls and connecting route I-87 to route I-90 if all lanes on I-90 between exits 24 and 26 are free of tolls, in New York State although such projects have no use other than as approaches to route I-90, if such projects are otherwise eligible for such approval.

(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I-90 connecting route I-88 to such route I-90 between exits 25 and 26 on condition that all lanes on I-90 between exits 24 and 26 are free of tolls.

METRIC SYSTEM SIGNING

SEC. 144. (a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act specifically authorizes such expenditure. 23 USC 109 note.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act specifically authorizes such expenditure.

(c) For purposes of subsections (a) and (b)— Definitions.

(1) the term "highway" means a highway as defined in section 101 of title 23, United States Code; and

(2) the term "metric system" means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

THE MAINE TURNPIKE

SEC. 145. (a) Upon satisfaction by the State of Maine or the Maine Turnpike Authority of the following conditions and subject to the requirements of subsection (b), the State of Maine and the Maine Turnpike Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:

(1) repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of $3,055,000 which is the amount of Federal-aid highway funds received for the construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, and at York, York County, Maine; and Repayment.

(2) destruction and removal of any existing toll plaza and toll collection facility within three years after repayment of bonds outstanding with respect to the Maine Turnpike on Interstate 295 at a location known as Exit 6A to the Maine Turnpike.

The amount to be repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Maine. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

(b) The State of Maine and the Maine Turnpike Authority are deemed to be in compliance with section 129(c) of title 23, United States Code: *Provided*, That the conditions of subsection (a) are satisfied and that no toll shall be imposed or collected three years after repayment of bonds outstanding with respect to the Maine Turnpike by the State of Maine or the Maine Turnpike Authority for the use of the following interchange or connection with the Maine Turnpike: The segment of the National System of Interstate and Defense Highways in South Portland, Cumberland County, Maine, and Scarborough, Cumberland County, Maine, and identified as Interstate 295, connecting Interstate 295 and the Maine Turnpike.

FOREIGN BUILT HOVERCRAFT IN ALASKA

46 USC 883 note.

46 USC 883.

SEC. 146. (a) Effective during the five-year period beginning on the date of enactment of this Act, nothing in section 27 of the Merchant Marine Act, 1920, or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft.

"Hovercraft."

(b) For the purpose of this section the term "hovercraft" means a vehicle which travels over land or water in a cushion of air generated by such vehicle.

ACCELERATION OF BRIDGE PROJECTS

23 USC 144 note.

SEC. 147. The Secretary of Transportation shall carry out two projects to construct or replace high traffic volume bridges located on the Federal-aid system and which traverse major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges. One project shall demonstrate the feasibility of reducing the time required from the time of a request for project approval through completion of construction. The other project shall demonstrate the feasibility of reducing the time to complete construction of bridge projects on which all Federal environmental and navigational reviews and assessments have been completed. Not to exceed $54,000,000 of the amount authorized for the fiscal year ending September 30, 1979, by section 202(6) of the Highway Safety Act of 1978 to be apportioned under section 144(e) of title 23, United States Code, shall be set aside before any such apportionment and shall be available for obligation to carry out this section in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended. The Federal share of the projects authorized by this section shall be that provided in section 120(c) of title 23, United States Code. Not later than six months after completion of each such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such bridge project, recommendations for applying such methods to other bridge projects, and any changes which may be necessary to existing laws to permit further reductions in the time necessary to complete bridge projects.

Apportionment set aside.

Post, p. 2728.

23 USC 101 *et seq.*

Federal share.

Report to Congress.

THOUSAND ISLANDS BRIDGE AUTHORITY

Exemption.

SEC. 148. The facility owned by the Thousand Islands Bridge Authority located in part on the right-of-way of Interstate Route I–81 in New York State six hundred feet from the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on such rights-of-way. Such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for export and for consumption outside the United States.

BLOOMINGTON FERRY BRIDGE

Appropriation authorization.

SEC. 149. There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, $200,000 for expenditure through the State of Minnesota in preparing environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minnesota. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

23 USC 101 *et seq.*

ACCESS CONTROL DEMONSTRATION PROJECTS

23 USC 307 note.

SEC. 150. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are on the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of three States.

Report to Congress.

(b) On or before September 30, 1983, the Secretary shall report to Congress the results of the projects carried out under this section.

Appropriation authorization.

(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

CONNECTOR PRIMARY DEMONSTRATION

SEC. 151. (a) The Secretary of Transportation, in cooperation with the States of New Mexico and Texas, shall conduct a demonstration project to upgrade routes on the Federal-aid primary system between Las Cruces, New Mexico, and Amarillo, Texas, and between Lubbock, Texas, and Interstate Route 10. The project shall demonstrate means by which the service provided by the Interstate System can efficiently and effectively be supplemented by such improvement.

(b) Funds to carry out the project authorized by subsection (a) shall come either (1) from funds apportioned to the States of New Mexico and Texas under section 104(b)(1) of title 23, United States Code with the Federal share of the project cost at 90 per centum, or (2) from funds available for obligation at the discretion of the Secretary of Transportation for priority primary routes with the Federal share of the project cost that applicable to such priority primary routes, without regard to whether such routes are in fact designated as priority primary routes.

DEMONSTRATION PROJECT—BYPASS HIGHWAY

SEC. 152. The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County, California, for the purpose of determining the extent such bypass highway will divert motor vehicle traffic around such park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system, except that the Federal share of the cost of such project shall not exceed 90 per centum. The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary. There is authorized to be appropriated, out of the Highway Trust Fund, $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $20,000,000 for fiscal year 1981, to carry out this section. Such sums shall remain available until expended.

Federal share.
23 USC 10 *et seq.*

Report to Congress.

Appropriation authorization.

DEMONSTRATION PROJECT—VENDING MACHINES

23 USC 111 note.

SEC. 153. The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section together with any recommendations he deems necessary.

Report to Congress.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

23 USC 135 note.

SEC. 154. (a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

Appropriation authorization.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $1,500,000 for the fiscal year ending September 30, 1979, not to exceed $2,500,000 for the fiscal year ending September 30, 1980, and not to exceed $26,000,000 for the fiscal year ending September 30, 1981.

Federal share.

(c) The Federal share payable on account of any project authorized under this section shall not exceed 90 per centum of the total cost thereof.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 90 per centum.

23 USC 101 *et seq.*

DEMONSTRATION PROJECT—RESTRICTED ACCESS

23 USC 134 note.

SEC. 155. (a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area.

Reports.

(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act.

Appropriation authorization.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section.

ALASKA AND PUERTO RICO INTERSTATE STUDY

Report to Congress.
23 USC 307 note.

SEC. 156. The Secretary of Transportation shall study and report to the Congress by July 1, 1979, on the feasibility and desirability of designating routes in the State of Alaska and Commonwealth of Puerto Rico as part of the National System of Interstate and Defense Highways. The study shall consider the transportation needs in such areas and shall include, but not be limited to, necessity for intercity routes of a standard greater than the primary system, expected traffic volume, requirements for movement of goods, and need for connectivity. The Secretary shall also report on appropriate design standards required for Interstate routes in the State of Alaska.

EAST-WEST TOLL ROAD—INDIANA STUDY

Report to Congress.

SEC. 157. The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds and report the results of such study to the Congress by November 15, 1978. Such study shall be limited to the following:

(1) Additional Indiana East-West Toll Road entrances and exits in locations designated as metropolitan areas by the United States Census Bureau, 1970 census or cities of twenty-five thousand or more population, and the approximate cost and course of funding of each interchange.

(2) Methods of economical toll collections assuring fair and equitable payment from the individual user and ascertainment of urban toll free areas.

(3) Improvements necessary to insure compliance of the Indiana East-West Toll Road with Interstate Highway Standards and the approximate cost and source of payment for such improvements.

(4) Projection of maintenance costs and revenues of the Indiana East-West Toll Road until 1994 under various toll systems and charges.

(5) Formula of toll distribution by which Indiana communities directly affected by ingress to or egress from the Indiana East-West Toll Road (limited to Indiana communities within fifteen miles of the Indiana East-West Toll Road) may be reimbursed for costs incurred due to the toll road from revenues remaining after expenditures are made for the upgrading of the Indiana East-West Toll Road to Federal highway standards, the maintenance of the toll road, the construction of new interchanges and bond obligations, specifically including reserves.

(6) The total cost to the State highway commission if tolls are removed.

(7) An estimate of the time frame for the earliest construction of whatever improvements are recommended, based upon each of the following alternative methods of financing: by proceeds from the sale of toll supported bonds, by funds provided solely by the State of Indiana, and by funds principally provided by the Federal Government.

COLUMBIA RIVER BRIDGE STUDY

SEC. 158. The Secretary of Transportation, in cooperation with the States of Washington and Oregon, shall conduct a feasibility study of an additional bridge across the Columbia River between Vancouver, Washington, and Portland, Oregon. The Secretary shall report the results of such study, together with his recommendations, not later than January 1, 1979.

Report.

STUDY CONCERNING URBAN BLIGHT

23 USC 134 note.

SEC. 159. The Secretary shall conduct a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

(a) a catalogue and evaluation of adverse impacts on adjacent land use;

(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway improvements and related measures needed to reduce adverse impacts;

(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

(f) such other matters as the Secretary shall deem appropriate.

Such study shall be conducted in cooperation with appropriate State and local governments and shall be submitted to Congress two years after the date of enactment.

Submittal to Congress.

INTERDEPARTMENTAL COORDINATION STUDY

49 USC 1653 note.

SEC. 160. (a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of—

(1) all those factors affecting the integration of the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws;

42 USC 1857 note, 6201 note. 49 USC 1601 note.

(2) the parallel among all rules, regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of this subsection;

(3) all those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency;

(4) the degree to which urban growth, development, and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards;

(5) the feasibility of permitting tolls and other user charges on roads and highways on the Federal-aid systems as part of a State implementation plan under the Clean Air Act.

(b) The results of the investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws.

VEHICLE WEIGHTS—INTERSTATE

SEC. 161. (a)(1) The Secretary of Transportation is hereby authorized and directed, in cooperation with other Federal officers and

Study and investigation. 23 USC 307 note.

agencies, the State departments of transportation or highway departments, and other affected parties, to make a study and investigation of—

(A) the need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States;

(B) the effect upon the construction, reconstruction and maintenance of roads, upon the economy of a State or region upon energy consumption, and upon carriers of reducing to limits set forth in section 127, title 23, United States Code, those maximum size and weight limits currently higher than limits in such section;

(C) the relation of highway and bridge design, construction practices, and maintenance costs in those States with weights above the Federal maximum, including an analysis of the adequacy of such design practices for these weights, as compared to the same factors in States adhering to the weight limits set forth in section 127 of title 23, United States Code; and

(D) the adequacy of current highway and bridge design standards with respect to the present and future transportation needs, considering costs, economy of transportation and fuel efficiency.

Report to Congress.

(2) The Secretary shall report to the Congress the findings and recommendations of this study no later than January 15, 1981. Such report shall include recommendations on the desirability of uniform maximum truck weights and, if desirable, appropriate means to bring about such uniformity, and the appropriateness of current maximum vehicle weights.

IMPACT OF INCREASED UNIT TRAIN TRAFFIC

Investigation and study.
23 USC 130 note.

SEC. 162. (a) The Secretary of Transportation, in cooperation with the State highway departments, and appropriate officials of local government, is authorized and directed to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic. Such study and investigation shall include, but not be limited to, the following:

(1) identification of specific adverse impacts on affected communities;

(2) examination of specific techniques to alleviate such impacts, including but not limited to low cost systems management methods, grade crossing separation, and rail line relocation, together with an assessment of the cost and benefits of each such technique;

(3) delineation of criteria to determine whether grade crossing separation or rail line relocation is appropriate for a given location;

(4) determination of the proper share of the cost of implementation for each such technique to be borne by the railroad or railroads based on the net benefit derived; and

(5) determination of various costs for different types of separation construction based on such factors as number of rail lines and number of highway lanes intersecting at the crossing.

(b) In the conduct of the investigation and study authorized by subsection (a) of this section, the Secretary shall specifically consider the following rail corridors:

(1) the Burlington Northern mainline from Beach, North Dakota to Staples, Minnesota, from Staples, Minnesota to Minneapolis/St. Paul, Minnesota and from Staples, Minnesota to Duluth, Minnesota/Superior, Wisconsin;

(2) the Burlington Northern line from Joder, Nebraska to Rulo, Nebraska;

(3) the Chicago Northwestern line from Harrison, Nebraska to Blair, Nebraska; and

(4) the Union Pacific line from Scottsbluff, Nebraska to Steele City, Nebraska.

(c) The Secretary shall report to the Congress on the results of the investigation and study authorized by subsection (a) of this section not later than March 31, 1979. Such report shall include the information required by subsection (a) together with the Secretary's conclusions and recommendations for appropriate legislation.

Report and legislative recommendations to Congress.

(d) There is hereby authorized to be appropriated not to exceed $350,000 to carry out this section.

Appropriation authorization.

BRIDGE DIVERSION STUDY

SEC. 163. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation.

Report and legislative recommendations to Congress.

BONDED INDEBTEDNESS STUDY

23 USC 129 note.

SEC. 164. The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of toll roads or portion thereof incorporated into the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and portions which remain free to public travel. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommended alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than July 1, 1980.

Report to Congress.

DULLES AIRPORT ACCESS HIGHWAY STUDY

SEC. 165. The Secretary of Transportation shall, not later than ninety days after the date of enactment of this section, complete the ongoing study of commuter access to the Dulles Airport Access Highway and report the findings and recommendations to Congress.

Report to Congress.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

23 USC 307 note.

SEC. 166. The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors.

OBLIGATION LIMITATION

SEC. 167. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1979 shall not exceed $8,500,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) Notwithstanding the limitation contained in subsection (a) of this section, the Secretary shall not in any way control—

(1) the rate of obligation of such limitation by allocation of such limitation or in any other manner; and

(2) by priority or otherwise, programs or projects eligible for Federal financial assistance from those funds for such programs and projects which are subject to such limitation, if such programs or projects are otherwise eligible for such assistance under title 23, United States Code, or any other applicable provision of law.

HAZARD ELIMINATION PROGRAM

SEC. 168. (a) Section 152 of title 23, United States Code, is amended to read as follows:

"§ 152. Hazard elimination program.

Survey and improvement schedule.

"(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

"(b) The Secretary may approve as a project under this section any highway safety improvement project.

"(c) Funds authorized to carry out this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

Federal share.

"(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

23 USC 402.
Waiver.
23 USC 104.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

Evaluation process.

"(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

State progress reports.

"(g) Each State shall report to the Secretary of Transportation not later than September 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1 of each year on the progress being made by the States in implementing the hazard elimination program. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

Report to Congress.

"State."

"(h) For the purposes of this section the term 'State' shall have the meaning given it in section 401 of this title."

Repeal.

(b) Section 153 of title 23, United States Code, is repealed.

(c) The analysis of chapter I of title 23 is amended by striking out: "Projects for high-hazard locations." and inserting in lieu thereof "Hazard elimination program." and by striking out: "153. Program for the elimination of roadside obstacles." and inserting in lieu thereof: "153. Repealed.".

(d) Subsection (c) of section 219 of title 23, United States Code, is amended by adding at the end thereof the following: "Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety construction projects.".

PLANNING

SEC. 169. (a) Section 134(a) of title 23, United States Code, is amended to read as follows:

Cooperation.

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.".

23 USC 105.

23 USC 134.

(b) Section 134 is further amended by adding a new subsection (b) as follows and redesignating existing subsection (b) as subsection (c):

Redesignation, agreement.

"(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

"(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.".

NATIONAL ALCOHOL FUELS COMMISSION

Establishment. 42 USC 5904 note.

SEC. 170. (a)(1) There is hereby established a Commission to be known as the National Alcohol Fuels Commission hereinafter referred to as the "Commission".

Investigation and study.

(2) The Commission shall make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including, but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs. It shall take into consideration the technical, economic, legal, environmental, and social factors associated with the production, manufacture, distribution, and use of such fuels. It will evaluate the costs and benefits of alternative feedstocks, and their possible end uses, and analyze the feasibility and desirability of converting these resources to alcohol fuels. Based on such study it shall recommend those policies, and their attendant costs and benefits, most likely to minimize our dependence on petroleum, insure adequate energy supplies, and contribute to the economic health of the Nation.

Membership.

(3) Members of the Commission shall be appointed by February 1, 1979. The Commission shall be established within sixty days of being provided with funds. The Commission shall be comprised of nineteen members as follows:

(A) a Chairman and five members appointed by the President pro tempore of the Senate from the membership of the Committee on Energy and Natural Resources, the Committee on Appropriations, and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate;

(B) a Vice Chairman and five members appointed by the Speaker of the House of Representatives from the membership of the Committee on Appropriations, the Committee on Science and Technology, and the Committee on Agriculture of the United States House of Representatives; and

(C) seven members of the public appointed by the President, including a broad representation from industrial, labor, agricultural, small business, and consumer groups.

Final report to President and Congress. Termination. Records and papers, deposition.

(b) The Commission shall not later than one year after being established submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(c) Such report shall include the Commission's findings and recommendations with respect to—

(1) the long- and short-term potential of alcohol fuels contributing to domestic energy supply;

(2) the relative costs and benefits of developing alcohol fuels from alternative feedstocks, taking into account technical, economic, legal, competitive, environmental, and social factors associated with their production, distribution, and use; their most appropriate end uses; and a recommended time frame for their introduction into the Nation's energy mix;

(3) the existing policies and programs of the Federal Government which affect the development of such alternative fuels; and

(4) new policies and programs required to develop alcohol fuels from coal and alcohol and other fuels from the biomass to meet the Nation's projected short-term and long-term energy needs.

Federal agencies, liaison.

(d)(1) The Chairman of the Commission shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national alcohol fuels policy to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agencies shall include, but not be limited to, the Department of Energy, the Department of Agriculture, the Department of Transportation, the Environmental Protection Agency, the Department of the Interior, the Department of Justice, the Department of the Treasury, and the Small Business Administration.

(2) In carrying out its duties the Commission shall seek the advice of various groups interested in a national alcohol fuel policy including, but not limited to, State and local governments, public and private organizations working in the fields of alternative fuel development, industry, labor, and the environment.

Hearings and meetings.

(e)(1) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) the Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

Compensation and expenses.

(f) (1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

5 USC 5332 note.

(2) Members of the Commission, except Members of Congress, shall each receive compensation for such periods of time as they are engaged in the business of the Commission at a rate not in excess of the maximum rate of pay for GS-18 as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the rules of the Senate, or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission member.

5 USC 5101 *et seq.*, 5331.

Experts and consultants.

(g) (1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code.

5 USC 5311.

(2) The staff director shall be compensated at level II of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(3) The Director and Commission personnel shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in performance of duties while serving the Commission staff.

Contracts or agreements.

(h) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations or consultants, and, if necessary, to transfer funds to and accept funds from Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

(i) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(j) Subject to the provisions of the Federal Advisory Committee Act, the Chairman may appoint advisory committees to aid in the work of the Commission.

Advisory committees.

(k) The Commission is exempt from the requirements of sections 4301 through 4308 of title 5, United States Code.

Performance rating, exemption.

(l) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to the Commission not to exceed $1,500,000 to carry out the purposes of this section.

Appropriation authorization.

LIMITATIONS

SEC. 171. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts.

TITLE II

Highway Safety Act of 1978.

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1978".

23 USC 401 note.

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

Appropriation authorization.

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out in accordance with section 402(c) of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), other than subsection (i), out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. For carrying out section 154(i) of such title, out of the Highway Trust Fund, $17,500,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of Highway Trust Fund, $900,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 30, 1980, $1,300,000,000 for the fiscal year ending September 30, 1981, and $900,000,000 for the fiscal year ending September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $65,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(8) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending September 30, 1979. $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $2,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

RAIL-HIGHWAY CROSSINGS

Appropriation authorization.
23 USC 130 note.

SEC. 203. (a) Subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93-87), as amended by the Highway Safety Act of 1976 (Public Law 94-280), is amended to read as follows:

"(b) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated, out of the Highway Trust Fund, for projects for the elimination of hazards of railway-highway crossings on any public road, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, $125,000,000 for the fiscal year ending September 30, 1978, $190,000,000 for the fiscal year ending September 30, 1979, and $190,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code.".

Repeal.

(b) Subsection (c) of section 203 of the Highway Safety Act of 1973 is hereby repealed.

(c) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended to read as follows: 23 USC 130 note.

"(d) 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of title 23, United States Code, 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of title 23, United States Code, and 50 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project shall be 90 percent of the cost thereof.". **Federal share.**

NATIONAL DRIVER REGISTER STUDY

SEC. 204. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals. Such investigation and study shall include, but not be limited to, the information to be placed in the register, the accessibility of such information (including privacy safeguards), the necessary computer-electronic equipment, and means of keeping such register current. The Secretary shall issue a final report to Congress on the results of such investigation and study, together with the recommendations of the Secretary, not later than one year after the date of enactment of this section. 23 USC 403 note. **Report to Congress.**

NATIONAL MAXIMUM SPEED LIMIT

SEC. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles. **State data, submittal.** 23 USC 141.

"(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981. **Apportionment reductions.** 23 USC 104.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the

State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982. 23 USC 104.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

Incentive grants.

"(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

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"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

"(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.".

23 USC 402.

ACCIDENT DATA

Appropriation authorization.

SEC. 206. There is authorized to be appropriated, out of the Highway Trust Fund, to the Secretary of Transportation not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for the acquisition, storage, and retrieval of highway accident data and for establishing procedures for reporting accidents on a nationwide basis.

HIGHWAY SAFETY PROGRAMS

SEC. 207. (a) The last sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "one or more States," the following: "including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures,".

(b)(1) Subparagraph (A) of paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by striking out "State agency" and inserting in lieu thereof "State highway safety agency".

Effective date.
23 USC 402 note.

(2) The amendment made by paragraph (1) of this subsection shall take effect January 1, 1979.

(c) Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

(d) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting immediately after "State highway safety program" the following: "(other than planning and administration)" and by inserting immediately after "non-Federal share of the cost of any project under this section" the following: "(other than one for planning or administration)".

INNOVATIVE PROJECT GRANTS

SEC. 208. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

23 USC 407.

"§ 407. Innovative project grants

"(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

Application selection procedure, consultation.

"(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

Applications.

"(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

"(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

Annual report to Congress.

"(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"407. Innovative project grants.".

HIGHWAY SAFETY EDUCATION AND INFORMATION

Pilot projects.
23 USC 401 note.

SEC. 209. (a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

Report to Congress.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

Appropriation authorization.

(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (b) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents.

National campaign.

(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such campaign.

(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programing for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

Evaluation.

(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation.

Annual report to Congress.

(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended.

Appropriation authorization.

MOTORCYCLE HELMET STUDY

SEC. 210. The Secretary of Transportation shall make a full and complete study of the effect of the provision contained in the eighth sentence of subsection (c) of section 402 of title 23 of the United

23 USC 402 note.

States Code relating to requirements, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles. Such investigation and study shall include, but not be limited to, deaths, accidents, severity of injuries, length of time of recuperation, and permanent disabilities. The Secretary shall report the results of such study, together with his recommendations, to Congress not later than one year after the date of enactment of this section.

Report to Congress.

STUDY OF OUTSIZED VEHICLES

23 USC 307 note.

SEC. 211. The Secretary of Transportation shall make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations. The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this section.

Report to Congress.

MARIJUANA AND OTHER DRUG REPORT

Submittal to Congress.
23 USC 403 note.

SEC. 212. The Secretary shall report to Congress not later than December 31, 1979, concerning the progress of efforts to detect and prevent marijuana and other drug use by operators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana and other drug use by motor vehicle operators. For the purpose of this section the term "drug" means a controlled substance within the meaning of section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

Legislative recommendations.
"Drug."

SAFETY BELT PROGRAM

SEC. 213. Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by section 202(1) of this title, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

23 USC 202.

SAFETY BELT STUDY

Arrangements
23 USC 402 note.

SEC. 214. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles, including, but not limited to, the use of various types of financial incentives and financial disincentives to encourage such use. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than one year after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such

Report to Secretary and Congress.

Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

PROHIBITION

Passive restraint system.

SEC. 215. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program.

TITLE III

Federal Public Transportation Act of 1978.

SHORT TITLE

49 USC 1601 note.

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1978".

DISCRETIONARY GRANT OR LOAN PROGRAM

SEC. 302. (a) Section 3(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

49 USC 1602.

"(a)(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as the Secretary may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing—

"(A) the construction of new fixed guideway systems and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock needed for such systems, and the detailed alternative analyses relating to the development of such systems;

"(B) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service and the coordination of such service with highway and other transportation. Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real property and improvements (but not public highways other than fixed guideway facilities) needed for an efficient and coordinated public transportation system. No project for the replacement or purchase of buses and related equipment or the construction of bus-related facilities shall be approved unless the Secretary finds that such project cannot be reasonably funded out of the apportionments under section 5(a)(4) of this Act;

Post, p. 2741.

"(C) the introduction into public transportation service of new technology in the form of innovative and improved products;

"(D) transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development or incorporate private investment including commercial and residential development. The term

"Eligible costs."

"eligible costs" includes property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the construction of commercial revenue-producing facilities, whether publicly or privately owned, or of those portions of public facilities not related to mass transportation. The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section. The Secretary shall require in all grants and loans under this subparagraph that any person or entity that contracts to occupy space in facilities funded under this subparagraph shall pay a fair share of the cost of such facilities, through rental payments and other means;

Fair share payment.

(E) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

45 USC 851.
Federal share.
49 USC 1603.

Determinations.

"(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(i) the legal, financial, and technical capacity to carry out the proposed project; and

"(ii) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

"(B) The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the determination required by subparagraph (A), that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period.

"(C) No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

"(3) The Secretary shall not approve a grant or loan for a project under this section unless the Secretary finds that such project is part of an approved program of projects required by section 8 of this Act.

Post, **p. 2743.**
Obligative letter of intent, issuance.

"(4) The Secretary is authorized to announce an intention to obligate for a project under this section through the issuance of a letter of intent to the applicant. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative commitment. The letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this section. The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in appropriations Acts. The total estimated amount of future Federal obligations covered by all outstanding letters of intent shall not exceed the amount authorized in section 4(c) of this Act, less an amount reasonably estimated by the Secretary to be necessary for grants under this section which are not covered by a letter of intent. The total amount covered by new letters issued shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph shall affect the validity of letters of intent issued prior to the enactment of the Federal Public Transportation Act of 1978.".

Infra.

Ante, p. 2735.

49 USC 1602.

(b) Section 3(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "including the net cost of property management" and inserting in lieu thereof the following: "including reconstruction, renovation, and the net cost of property management".

(c) Section 3(e)(1) of the Urban Mass Transportation Act of 1964 is amended by striking out "the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area" and inserting in lieu thereof "the Secretary finds that such assistance is essential to the program of projects required by section 8 of this Act".

Post, p. 2743.

(d) Section 3(h) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

Buses and related facilities, expenditures.

"(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(4).".

49 USC 1604.

AUTHORIZATIONS

SEC. 303. (a) The caption of section 4 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "NET PROJECT COST, FEDERAL SHARE, AND AUTHORIZATIONS".

49 USC 1603.

(b) Section 4(a) of the Urban Mass Transportation Act of 1964 is amended by striking out the first three sentences.

(c) Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)"; by inserting after the word "Act" the second time it appears in the first sentence the words "as it read prior to enactment of the Federal Public Transportation Act of 1978"; by striking out the last sentence; and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, the unobligated balance of contract authority established pursuant to paragraph (1) shall not be available for administrative commitment after September 30, 1978, and shall lapse on September 30, 1980.

Appropriation authorization.

"(3)(A) To finance additional grants and loans under section 3 of this Act and to finance grants and contracts under subsection (i)

Post, p. 2743.

of this section and section 8 of this Act, there are authorized to be appropriated not to exceed $1,375,000,000 for the fiscal year ending September 30, 1979; $1,410,000,000 for the year ending September 30, 1980; $1,515,000,000 for the year ending September 30, 1981; $1,600,000,000 for the fiscal year ending September 30, 1982; and $1,580,000,000 for the fiscal year ending September 30, 1983. In any fiscal year not more than five and one-half per centum of such fiscal years appropriation pursuant to this subparagraph shall be used for the purposes of subsection (i) of this section and section 8 of this Act. Appropriations pursuant to the authority of this paragraph and subsection (g) of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available for three years following the close of the fiscal year for which such appropriation is made.

"(B) In each fiscal year, not more than $200,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants and loans approved under section 3(a)(1)(D) of this Act.

Ante, p. 2735.

"(C) Not more than $45,000,000 of the total sums appropriated pursuant to subparagraph (A) shall be available for grants approved under section 3(a)(1)(E) of this Act.

"(D) In each fiscal year, at least $350,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants for the reconstruction and improvement of existing public mass transportation systems.".

49 USC 1603.

(d) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated $10,000,000 in each fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, to carry out the functions of section 11(b) of this Act. Sums appropriated pursuant to this subsection shall remain available until expended.".

Post, p. 2745.

(e) Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsections:

Post, p. 2748.

"(e) To finance grants under section 18 of this Act, there are authorized to be appropriated not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1981; $120,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection shall remain available until expended.

"(f) There are authorized to be appropriated to carry out the functions of this Act, other than sections 3, 5, 8, 11(b), 16(b), 18, 21, and 22, not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $95,000,000 for the fiscal year ending September 30, 1980; $100,000,000 for the fiscal year ending September 30, 1981; and $105,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

Ante, p. 2735, *Post*, pp. 2739, 2748, 2754, 2755.

49 USC 1605.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out public transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23, United States Code.

Reports to Congress.

"(h)(1) On or before the twentieth day of each calendar quarter the Secretary shall submit to Congress a report on (1) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this Act; (2) the balance as of the last day of each quarter of the unobligated, uncommitted, and unreserved apportionments made under this Act; (3) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act as of the end of such quarter; (4) a listing of letters of intent issued; and (5) a status report on all outstanding letters of intent.

"(2) On or before October 1, 1979, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1981 through 1984. On or before October 1, 1981, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1983 through 1986. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.

Ante, p. 2735, *infra*.

"(i) The Secretary is authorized to make grants to States and local public bodies, using sums available pursuant to section 4(c)(3)(A) of this section, for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. In each fiscal year grants for any one State shall not exceed twelve and one-half per centum of the funds available for the purposes of this subsection."

Grants.

URBAN MASS TRANSIT PROGRAM

SEC. 304. (a) Subsections (a) and (b) of section 5 of the Urban Mass Transportation Act of 1964 are amended to read as follows:

Funds, apportionment.
49 USC 1604.

"(a)(1)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c)(1) of this section and appropriated pursuant to subsection (c)(2) of this section. For subsequent fiscal years, the Secretary shall apportion the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

> "(i) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and
>
> "(ii) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

"Density."

"(B) There are authorized to be appropriated for the purposes of this paragraph, $900,000,000 in each fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982.

Appropriation authorization.

"(2)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (C) of this paragraph.

"(i) Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"Density."

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(ii) Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

"Density."

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

Appropriation authorization.

"(C) There are authorized to be appropriated for the purposes of this paragraph $250,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $250,000,000 for the fiscal year ending September 30, 1981; and $250,000,000 for the fiscal year ending September 30, 1982.

"(3)(A) To make grants for construction and operating assistance projects under this subsection involving commuter rail or other fixed guideway systems, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) two-thirds of the total amount to be apportioned as follows: one-half multiplied by a ratio which the number of commuter rail train miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail train miles operated in or serving all urbanized areas in the prior fiscal year, and one-half multiplied by a ratio which the number of commuter rail route miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail route miles operated in or serving all urbanized areas in the prior fiscal year. No single eligible State's portion of an urbanized area shall receive in any fiscal year less than one-half per centum or more than thirty per centum of the sums appropriated for such fiscal years pursuant to this clause;

"(ii) one-third of the total amount to be apportioned multiplied by the ratio that the number of fixed guideway system route miles (excluding commuter rail route miles) in the urbanized area in the prior fiscal year bears to the total number of such fixed guideway system route miles (excluding commuter rail route miles) in all urbanized areas in the prior fiscal year. For the purposes of the calculation to be made under this subparagraph, no single State's portion of an urbanized area shall receive more than 30 per centum of the sums appropriated for such fiscal year pursuant to this clause.

Sums apportioned under this paragraph shall be available for expenditure only for capital or operating assistance projects involving commuter rail or other fixed guideway systems.

Appropriation authorization.

"(B) There are authorized to be appropriated for the purposes of this paragraph, $115,000,000 for the fiscal year ending September 30, 1979; $130,000,000 for the fiscal year ending September 30, 1980; $145,000,000 for the fiscal year ending September 30, 1981; and $160,000,000 for the fiscal year ending September 30, 1982.

"(4)(A) To make grants under this subsection for the purchase of buses and related equipment, or the construction of bus related facilities, the Secretary shall apportion in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. In fiscal years 1979 and 1980, the apportionments shall be made in accordance with the population density formula set out in subsection (a)(1)(A) of this section. Sums apportioned under this paragraph shall be available only for projects for the purchase of buses and related equipment, in the construction of bus related facilities, except that projects assisted pursuant to section 3(h) of this Act may utilize funds apportioned under this section for any eligible construction project.

Ante, p. 2737.

Appropriation authorization.

"(B) There are authorized to be appropriated for the purposes of this paragraph $300,000,000 for the fiscal year ending September 30, 1979; $300,000,000 for the fiscal year ending September 30, 1980; $370,000,000 for the fiscal year ending September 30, 1981; and $455,000,000 for the fiscal year ending September 30, 1982.

Recipient designation.

Post, p. 2743.

"(b)(1) The Governor, responsible local officials, and publicly owned operators of mass transportation services, in accordance with the planning process required under section 8 of this Act, with the concurrence of the Secretary, shall designate a recipient or recipients to receive and dispense the funds apportioned under subsection (a) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipient' as used in this section shall refer to the recipient selected according to the procedures required by this paragraph.

"Designated recipient."

"(2) Sums apportioned under subsection (a) not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) of this subsection shall be made available to the Governor for expenditures in urbanized areas or parts thereof in accordance with the planning process required under section 8 of this Act and shall be fairly and equitably distributed. The Governor shall submit annually a report to the Secretary concerning the allocation of funds made available under this paragraph.".

Appropriation authorization.
49 USC 1604.

(b) Section 5(c)(2) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980, the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section.".

(c) Section 5(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraphs:

"(3) Appropriations pursuant to this section shall be available until expended.

"(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year, except that any funds authorized by section 5(a) (3) and (4) which are so reapportioned shall remain subject to the limitations applicable to the original apportionment of such funds.".

(d) Section 5(f) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending prior to October 1, 1981, shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available: *Provided, however*, That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure. Nothing in the preceding sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project. Where the Secretary finds that a recipient has reduced operating costs without reducing service levels the recipient shall be entitled to make a proportionate reduction in the amount of transit revenues required to be expended under this subsection.".

(e) Section 5(g) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

Post, p. 2743.

"(g) The Secretary shall not approve a grant or loan for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act, and that the applicant or responsible agency has or will have—

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control, through operation or lease or otherwise, over the use of project facilities and equipment.".

(f) Section 5(i) of the Urban Mass Transportation Act of 1964 is amended by striking out "and (2)" and inserting in lieu thereof

"(2)"; by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.".

Notice and hearings.

PLANNING AND TECHNICAL STUDIES

Repeals. 49 USC 1607, 1607a.

SEC. 305. (a) Sections 8 and 9 of the Urban Mass Transportation Act are repealed.

(b) The Urban Mass Transportation Act is amended by inserting after section 7 the following new section:

"PLANNING AND TECHNICAL STUDIES

49 USC 1607.

Cooperation.

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

Metropolitan planning organizations, designations.

"(b)(1) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

"(2) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

"(3) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

Program, approval.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve for an urbanized area any such program of projects in whole or in part unless (1) the Secretary finds that the planning process on which such program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

Contracts and grants.

"(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.".

FELLOWSHIP ASSISTANCE

SEC. 306. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

49 USC 1607b.

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which the recipient can be reasonably expected to make to an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $24,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grantee, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grantee).".

Selections.

TRANSPORTATION CENTERS

Grants.
49 USC 1607c.

SEC. 307. Subsection (b) of section 11 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

"(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems.

Duties.

"(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

Projects program, approval.

"(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

State matching grants.

"(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant.

"(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

Report.

"(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.".

Annual report to Congress.

DEFINITIONS AND GENERAL PROVISIONS

49 USC 1608.

SEC. 308. Section 12 of the Urban Mass Transportation Act of 1964 is amended as follows:

(a) Subsection (b) is amended—

(1) by inserting "(1)" after "(b)";

(2) by adding at the end thereof the following:

Evaluations.

"(2) After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this Act, may be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.".

Definitions.

(b) Subsection (c) is amended to read as follows:

"(c) As used in this Act—

"(1) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in public transportation, including designing, engineering, location surveying, mapping, acquisition of rights-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

"(2) the term 'fixed guideway' means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles;

"(3) the term 'Governor' means the ranking executive officer or his designate for each of the jurisdictions included in the definition of 'State':

"(4) the term 'handicapped person' means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively. The Secretary may, by regulation, adopt modifications of this definition for purposes of section 5(m) of this Act;

49 USC 1604.

"(5) the term 'local public bodies' includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States; Indian tribes; and public corporations, boards, and commissions established under the laws of any State;

"(6) the term 'mass transportation' means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis;

"(7) the term 'public transportation' means mass transportation;

"(8) the term 'Secretary' means the Secretary of Transportation;

"(9) The term 'States' means the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands;

"(10) the term 'urban area' means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth; and

"(11) the term 'urbanized area' means an area so designated by the Bureau of Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.".

(c) Subsections (d) and (f) of section 12 of the Urban Mass transportation Act of 1964 are repealed and section 12(e) is redesignated as section 12(d).

Repeals.
49 USC 1608.

(d) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) None of the provisions of this Act shall be construed to authorize Federal financial assistance for the purpose of financing the acquisition by one public body of land, facilities, or equipment used in mass transportation from another public body in the same geographic area.

"(f)(1) A State or local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State of local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

Exemption, petition.
49 USC 301.
Notice and hearing.

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.

"(g) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local body which is acquiring such buses to provide in advertising for bids for passenger seats functional specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978."

Bus seat specifications.

Ante, p. 2735.

PROCUREMENT STUDY

Evaluation. 49 USC 1604 note. 49 USC 1601 note. Report to Congress.

SEC. 309. The Secretary of Transportation shall make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964, and from whom purchased. Such evaluation shall consider the benefits of more widespread utilization of negotiated procurements. The Secretary shall, not later than July 1, 1979, report to Congress the results of such evaluation together with his recommendations for necessary legislation.

REPORTING SYSTEM

Legislative recommendations to Congress. 49 USC 1611.

SEC. 310. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, not later than July 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recommendations for any further legislation, if any, he deems necessary in connection with such systems.".

SET ASIDE FOR ELDERLY AND HANDICAPPED

49 USC 1612.

SEC. 311. (a) The last sentence of subsection (b) of section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "Of the total amount authorized to be appropriated pursuant to section 4(c)(3) of this Act, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).".

Repeal.

(b) Section 16(d) of the Urban Mass Transportation Act of 1964 is repealed.

COMMUTER RAIL OPERATING ASSISTANCE

Emergency financial assistance. 49 USC 1613.

SEC. 312. (a) Section 17(d) of the Urban Mass Transportation Act of 1964 is amended by inserting the word "and" immediately after the semicolon in paragraph (3); by striking out "180-day period succeeding the period specified in subparagraph (3) of this subsection" and inserting "period ending September 30, 1978." in paragraph (4); and by striking out paragraph (5).

Appropriation authorization.

(b) Section 17(f) of the Urban Mass Transportation Act of 1964 is amended by striking out "$185,000,000" in the first sentence and inserting in lieu thereof "$125,000,000" and by amending the second sentence to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977 and $125,000,000 by September 30, 1978, such sums to remain available until expended.".

Repeal. 49 USC 1614.

(c) Section 18 of the Urban Mass Transportation Act of 1964 is repealed.

FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS

SEC. 313. (a) The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

Apportionment. 49 USC 1614. *Ante*, p. 2738.

"SEC. 18. (a) The Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to section 4(e) of this Act. Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which the Governor of each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State, as designated by the Bureau of the Census, bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census. Appropriations pursuant to the authority of this section may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

"(b) Funds made available under this section may be used for public transportation projects which are included in a State program of projects for public transportation services in areas other than urbanized areas. Such program shall be submitted annually to the Secretary for his approval. The Secretary shall not approve the program unless he finds that it provides for a fair and equitable distribution of funds within the State, including Indian reservations within the State, and provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.

Annual program approval.

"(c) Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for any projects eligible under this Act which are appropriate for areas other than urbanized areas, including purchase of service agreements with private providers of public transportation service, to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services.

Eligible recipients.

"(d) The Secretary may permit an amount, not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

Technical assistance.

Federal share.

"(e) The Federal share under this Act for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. The Federal share under this Act for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project. At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement, or depreciation funds or reserves available in cash or new capital.

Terms and conditions.

"(f) Grants under this section shall be subject to such terms and conditions (which are appropriate to the special needs of public transportation in areas other than urbanized areas) as the Secretary may prescribe. The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section. For the purposes of this section, the Secretary of Labor may waive any provisions of section 13(c) of this Act. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

49 USC 1602, 1609.
Waiver.

Evaluation, cooperation.

"(g) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation of insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later than January 1, 1980, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

Report and legislative recommendations to Congress.

NONDISCRIMINATION

SEC. 314. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION

49 USC 1615.

"SEC. 19. (a)(1) GENERAL.—No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act. The provisions of this section shall apply to employment and business opportunities and shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

42 USC 2000d.

"(2) AFFIRMATIVE ACTION.—The Secretary shall take affirmative action to assure compliance with subsection (a)(1) of this section.

"(3) COMPLIANCE.—(A) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this Act, has failed to comply with subsection (a)(1) of this section, with any Federal civil rights statute, or with any order or regulation issued under such statute, the Secretary shall give notice of such determination and shall require necessary action to be taken to assure compliance with such subsection.

"(B) If, within a reasonable period of time after receiving notification pursuant to paragraph (a) of this subsection, such person fails or refuses to comply with subsection (a)(1) of this section, the Secretary shall—

"(i) direct that no further Federal financial assistance under this Act be provided to such person;

"(ii) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(iii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

"(iv) take such other actions as may be provided by law.

"(4) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (a)(3)(B)(ii) of this section, or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"(5) DEFINITION.—For purposes of this section, the term 'person' includes one or more governmental agencies, political subdivisions, authorities, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.".

"Person."

HUMAN RESOURCE PROGRAMS

SEC. 315. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"HUMAN RESOURCE PROGRAMS

"SEC. 20. The Secretary is authorized to undertake, or provide financial assistance by grant or contract for, national and local programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and training and assistance for minority business opportunities. Such assistance may include assistance in seeking venture capital, obtaining surety bonding, obtaining management and technical services, and contracting with public agencies organized for such purposes.".

Assistance, grant or contract.
49 USC 1616.

LOAN FORGIVENESS

SEC. 316. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 14924), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) of the Urban Mass Transportation Act of 1964 may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

Conversion to grants, conditions.
49 USC 1602–1.
***Ante*, p. 2735.**
42 USC 1491.

Terms and conditions.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

RETREAD TIRE MANUFACTURERS EXEMPTION FROM RECORDKEEPING

SEC. 317. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting "except the manufacturer of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.

BASIC TRANSPORTATION SYSTEM STUDY

49 USC 1607 note.

Report to Congress.

SEC. 318. The Secretary of Transportation shall make a full and complete investigation and study of establishing and operating a mass transportation system, in whole or in part, which would provide basic services with a minimum of amenities, at low costs. The Secretary shall report to the Congress the results of such investigation and study not later than one year after the date of enactment of this section.

STUDIES OF DISTRIBUTION OF FUNDS

49 USC 1604 note.

Ante, p. 2741.

SEC. 319. (a) The Secretary of Transportation shall conduct a study of the alternative methods of distributing, by formula, funds apportioned for capital purposes under section 5(a)(4) of the Urban Transportation Act of 1964. The study shall include an evaluation of the appropriate goals of a formula program for the distribution of such capital assistance and an analysis of the various factors which may be used to measure transit usage or need, including vehicle miles, seat miles, fleet or vehicle age, fleet size, population and population density, and such other factors as the Secretary considers necessary or appropriate to achieve such goals. The Secretary shall report to Congress the results of this study not later than January 1, 1980, together with his recommendations for legislation.

Report to Congress.

Report and legislative recommendations to congressional committees.

(b) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, on or before January 1, 1980, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his findings with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including, but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including, but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meteorological, and other variations so that

air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including, but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964, *Ante*, p. 2735, 2739.

(5) the relative weight which such an air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

49 USC 1605 note.

SEC. 320. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed water-borne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. The Secretary shall report to Congress the results of such project no later than September 30, 1981, together with his recommendations.

Report to Congress.

(b) There is authorized to be appropriated to carry out the provisions of subsection (a) not to exceed $25,000,000.

Appropriation authorization.

RAIL RETROFIT EVALUATION

Federal financial assistance. 49 USC 1612 note. *Ante*, p. 2743.

SEC. 321. (a)(1) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 8 of the Urban Mass Transportation Act of 1964 to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates.

Report and legislative recommendations to Congress.

(2) In developing detailed estimates of the cost of improvements needed to make existing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary.

Cost estimates and comments.

(3) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973.

29 USC 794.

(b) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than January 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes.

Report and legislative recommendations to Congress.

TERMINAL DEVELOPMENT PROGRAM

SEC. 322. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"TERMINAL DEVELOPMENT PROGRAM

Grants, terms and conditions.
49 USC 1617.

"SEC. 21. (a) The Secretary is authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities.

"(b) No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, construction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

"(c) A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordance with section 4(a) of this Act. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

49 USC 1603.

Appropriation authorization.

"(d) There is authorized to be appropriated to carry out subsection (a) of this section $40,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

49 USC 1602, 1609.

"(e) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

INTERCITY BUS SERVICE

SEC. 323. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"INTERCITY BUS SERVICE

Grants.
49 USC 1618.

"SEC. 22. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 12 of this Act. As used in this subsection and subsection (b) of this section, the term 'intercity bus service' means transportation provided to the public as a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service.

Definition.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. To the maximum extent feasible assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

Appropriation authorization.

"(d) The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.

Evaluation.

Report and legislative recommendations to Congress.

"(e) The provisions of section 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

49 USC 1602, 1609.

TITLE IV

BUY AMERICA

49 USC 1602 note.

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

Exceptions.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

(1) their application would be inconsistent with the public interest;

(2) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

(3) supplies of the class or kind to be used in the manufacture of articles, materials, supplies that are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

TITLE V—HIGHWAY REVENUE ACT OF 1978

23 USC 101 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1978".

SEC. 502. 5-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1984":

26 USC 4041. (1) Section 4041(e) (relating to rate reduction).

26 USC 4061. (2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

26 USC 4071. (4) Section 4071(d) (relating to imposition of tax on tires and tubes).

26 USC 4081. (5) Section 4081(b) (relating to imposition of tax on gasoline).

26 USC 4481. (6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

26 USC 4482. (8) Section 4482(c)(4) (defining taxable period).

26 USC 6156. (9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

26 USC 6421. (10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) Amendment of Section 4041(c)(3).—Paragraph (3) of section 4041(c) of such Code (relating to rate of tax) is amended to read as follows:

26 USC 4041.

"(3) Rate of tax.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(c) Amendment of Section 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

26 USC 6412.

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) Highway Trust Fund.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

(b) Conforming Amendments to Land and Water Conservation Fund.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11) is amended.

16 USC 460*l*–11.

(1) by striking out "1979" and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 504. BYRD AMENDMENT MADE APPLICABLE TO ALL APPORTIONMENTS.

(a) General Rule.—Subsection (g) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows:

23 USC 120 note.

'(g) Adjustments of Apportionments.—

"(1) Estimates of amount available for expenditure.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

Consultation.

"(2) Initial procedure where there is shortfall.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and

Advisement.

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) Determination of percentage.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

23 USC 120 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1978.

SEC. 505. CREDIT OR REFUND FOR CERTAIN TAXICABS OF EXCISE TAXES ON GASOLINE AND OTHER MOTOR FUELS.

26 USC 6427.

(a) GENERAL RULE.—Section 6427 of the Internal Revenue Code of 1954 (relating to fuels not used for taxable purposes) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) USE IN CERTAIN TAXICABS.—

Payment.

"(1) IN GENERAL.—Except as provided in subsection (h), if—

26 USC 4081.

"(A) any gasoline on which tax is imposed by section 4081, or

26 USC 4041.

"(B) any fuel on the sale of which tax is imposed by section 4041,

is used in a qualified taxicab while engaged exclusively in furnishing qualified taxicab services, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) **Qualified taxicab services.**—The term 'qualified taxicab services' means the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who—

"(i) is licensed to engage in the trade or business of furnishing such transportation by a Federal, State, or local authority having jurisdiction over a substantial portion of such transportation furnished by such person, and

"(ii) is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and is not prohibited by company policy, from furnishing (with consent of the passengers) shared transportation.

"(B) **Qualified taxicab.**—Except as provided by subparagraph (C), the term 'qualified taxicab' means any land vehicle the passenger capacity of which is less than 10 adults, including the driver.

"(C) **Certain gas-guzzling taxicabs excluded.**—The term 'qualified taxicab' does not include any vehicle if—

"(i) such vehicle was acquired by the person operating such vehicle after 1978,

"(ii) the model year of such vehicle is 1978 or later, and

"(iii) the fuel economy of the model type of such vehicle is less than or equal to the average fuel economy standard applicable under section 502(a) of the Motor Vehicle Information and Cost Savings Act to the model year of such vehicle. 15 USC 2002.

The preceding sentence shall not apply to any vehicle manufactured by a manufacturer to which an exemption under section 502(c) of the Motor Vehicle Information and Cost Savings Act was granted (or on application could have been granted) for the model year of such vehicle. Terms used in this subparagraph shall have the same meaning as when used in title V of the Motor Vehicle Information and Cost Savings Act. 15 USC 2001.

"(3) **Termination.**—This subsection shall not apply after December 31, 1980."

(b) **Refund Allowed Where $50 or More Payable for Calendar Quarter.**—Subsection (f)(2) of section 6427 of such Code (as redesignated by subsection (a)) is amended to read as follows: 26 USC 6427.

"(2) **Exceptions.**—

"(A) **In general.**—If—

"(i) $1,000 or more is payable under subsections (a), (b), (d), and (e), or

"(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used during such quarter.

"(B) **Special rule.**—If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e).

"(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(c) TECHNICAL AMENDMENTS.—

26 USC 39.

(1) Subsections (a)(4) and (b) of section 39 of such Code are each amended by striking out "6427(g)" and inserting in lieu thereof "6427(h)".

26 USC 6427.

(2) Subsections (a), (b)(1), (c), and (d) of section 6427 of such Code are each amended by striking out "(g)" and inserting in lieu thereof "(h)".

(3) Subsection (f)(1) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(a), (b), (c), or (d)" and inserting in lieu thereof "(a), (b), (c), (d), or (e)".

(4) Subsection (h)(2) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(e)(2)" and inserting in lieu thereof "(f)(2)".

26 USC 7210, 7603, 7604, 7605.

(5) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out "6427(f)(2)" each place it appears and inserting in lieu thereof "6427(g)(2)".

26 USC 7609, 7610.

(6) Sections 7604(c)(2), 7609(c)(1), and 7610(c) of such Code are each amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(g)(2)".

26 USC 6427 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

23 USC 307 note.

SEC. 506. REQUIREMENT FOR A COST ALLOCATION STUDY.

(a) STUDY DIRECTED.—The Secretary of Transportation is hereby authorized and directed, in cooperation with the State highway departments, to undertake a full and complete investigation and study of—

(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congressional Budget Office is hereby authorized and directed to make an evaluation of—

(1) the procedures to be employed in determining the equitable allocation of highway costs;

(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

(4) the procedures to be employed to ensure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within ninety days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

Report to Congress and Transportation Secretary.

(c) REPORTS.—

Submittals to Congress.

(1) Within one hundred and eighty days after the date of the enactment of this section, the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

(2) On or before January 15, 1980, and January 15, 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of such structures on affected industries and other users.

SEC. 507. STUDY OF EXISTING HIGHWAY EXCISE TAX STRUCTURE AND OF POSSIBLE ALTERNATIVES TO SUCH EXISTING STRUCTURE.

23 USC 120 note.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

Consultation.

(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

Report to congressional committees.

(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 of the equitable distribution of the highway excise taxes.

Consultation and filing with congressional committees.

(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1485 (Comm. on Public Works and Transportation) and No. 95-1797 (Comm. of Conference).

SENATE REPORT: No. 95-833 accompanying S. 3073 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 18, 21, 28, S. 3073 considered in Senate.
Sept. 15, 21, 22, 27, 28, considered and passed House.
Oct. 3, considered and passed Senate, amended, in lieu of S. 3073.
Oct. 15, Senate and House agreed to conference report.

Public Law 95-600
95th Congress

An Act

To amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

Nov. 6, 1978
[H.R. 13511]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Revenue Act of 1978.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Revenue Act of 1978".

26 USC 1 note.

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.
Sec. 3. Policy with respect to additional tax reductions.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

Sec. 101. Widening of brackets; rate cuts in certain brackets; increase in zero bracket amounts.
Sec. 102. Personal exemptions increased to $1,000.
Sec. 103. Earned income credit made permanent.
Sec. 104. Increase in and simplification of the earned income tax credit.
Sec. 105. Advance payment of earned income credit.
Sec. 106. Application of certain changes in the case of fiscal year taxpayers.

Subtitle B—Itemized Deductions

Sec. 111. Repeal of nonbusiness deduction for State and local taxes on gasoline and other motor fuels.
Sec. 112. Unemployment compensation.

Subtitle C—Credits

Sec. 121. Payments to related individuals under child care credit.

Subtitle D—Deferred Compensation

PART I—DEFERRED COMPENSATION PROVISIONS

Sec. 131. Deferred compensation plans with respect to service for State and local governments.
Sec. 132. Certain private deferred compensation plans.
Sec. 133. Clarification of deductibility of payments of deferred compensation, etc., to independent contractors.
Sec. 134. Tax treatment of cafeteria plans.
Sec. 135. Certain cash or deferred arrangements.

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

Sec. 141. ESOPS.
Sec. 142. Certain lump sum distributions excluded from gross estate where recipient elects not to apply 10-year averaging.
Sec. 143. Qualified plans required to pass through voting rights on employer securities.

Subtitle E—Retirement Plans

Sec. 152. Simplified employee pensions.
Sec. 153. Defined benefit plan limits.
Sec. 154. Custodial accounts for regulated investment company stock.
Sec. 155. Pension plan reserves.
Sec. 156. Rollover of section 403(b) annuities permitted.
Sec. 157 Individual retirement account technical changes.

Subtitle F—Other Individual Items

Sec. 161. Certain Government scholarship and award programs.
Sec. 162. Cancellation of student loans.
Sec. 163. Tax counseling for the elderly.
Sec. 164. Exclusion of value of certain educational assistance programs.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related to At Risk Rules

Sec. 201. Extension of section 465 at risk rules to all activities other than real estate.
Sec. 202. Extension of at risk provisions to closely held corporations.
Sec. 203. Recapture of losses where amount at risk is less than zero.
Sec. 204. Effective dates.

Subtitle B—Partnership Provisions

Sec. 211. Penalty for failure to file partnership return.
Sec. 212. Extension of statute of limitations in the case of partnership items.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

Sec. 301. Corporate rate reductions.

Subtitle B—Credits

Sec. 311. 10-percent investment tax credit and $100,000 limitation on used property made permanent.
Sec. 312. Increase in limitation on investment credit to 90 percent of tax liability.
Sec. 313. Investment credit for pollution control facilities.
Sec. 314. Investment credit for certain single purpose agricultural or horticultural structures.
Sec. 315. Investment credit allowed for certain rehabilitated buildings.
Sec. 316. Tax treatment of the investment credit in the case of cooperative organizations.
Sec. 317. Transfers to ConRail not treated as dispositions for purposes of the investment credit.

Subtitle C—Targeted Jobs Credit; WIN Credit

Sec. 321. Targeted jobs credit.
Sec. 322. Work incentive program credit changes.

Subtitle D—Tax Exempt Bonds

Part I—Industrial Development Bonds

Sec. 331. Increase in limit on small issues of industrial development bonds.
Sec. 332. Local furnishing of electric energy.
Sec. 333. Industrial development bonds for water facilities.
Sec. 334. Advance refunding of industrial development bonds for qualified public facilities.

Part II—Other Tax-Exempt Bond Provisions

Sec. 336. Declaratory judgment procedure for judicial review of determinations relating to governmental obligations.
Sec. 337. Disposition of amounts generated by advance refunding of certain governmental obligations.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

Sec. 341. Subchapter S corporations allowed 15 shareholders.
Sec. 342. Permitted shareholders of subchapter S corporations.
Sec. 343. Extension of period for making subchapter S elections.
Sec. 344. Effective date.

PART II—OTHER PROVISIONS

Sec. 345. Small business corporation stock.

Subtitle F—Accounting Provisions

Sec. 351. Treatment of certain closely held farm corporations for purposes of rule requiring accrual accounting.
Sec. 352. Accounting for growing crops.
Sec. 353. Treatment of certain farms for purposes of rule requiring accrual accounting.

Subtitle G—Other Business Provisions

Sec. 361. Disallowance of certain deductions for yachts, hunting lodges, etc.
Sec. 362. Deficiency dividend procedure for regulated investment companies.
Sec. 363. Real estate investment trust provisions.
Sec. 364. Contributions in aid of construction.
Sec. 365. Liabilities of controlled corporations.
Sec. 366. Medical expense reimbursement plans.
Sec. 367. Three-year extension of provision for 60-month depreciation of expenditures to rehabilitate low-income rental housing.
Sec. 368. Delay in application of new net operating loss rules.
Sec. 369. Use of certain expired net operating loss carryovers.
Sec. 370. Income from certain railroad rolling stock treated as income from sources within the United States.
Sec. 371. Net operating losses attributable to product liability losses.
Sec. 372. Exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year.
Sec. 373. Qualified discount coupons redeemed after close of taxable year.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

Sec. 401. Repeal of alternative tax on capital gains of individuals.
Sec. 402. Increased capital gains deductions for individuals.
Sec. 403. Reduction of alternative capital gains tax for corporations.
Sec. 404. One-time exclusion of gain from sale of principal residence by individual who has attained age 55.
Sec. 405. Waiver of certain 18-month rules of section 1034 when sale of residence is connected with commencing work at new place.

Subtitle B—Minimum Tax Provisions

Sec. 421. Alternative minimum tax for taxpayers other than corporations.
Sec. 422. Treatment of intangible drilling cost for purposes of the minimum tax.

Subtitle C—Maximum Tax Provisions

Sec. 441. Treatment of capital gains for purposes of the maximum tax.
Sec. 442. Determination of personal service income from nonsalaried trade or business activities.

TITLE V—OTHER TAX PROVISIONS

Subtitle A—Administrative Provisions

Sec. 501. Reporting requirements with respect to charged tips.
Sec. 502. Extension of optional small tax case procedures and expansion of authority of commissioners of Tax Court.
Sec. 503. Disclosure of return information to certain Federal officers and employees for purposes of tax administration, etc.
Sec. 504. Refund adjustments for amounts held under claim of right.

Subtitle B—Estate and Gift Tax Provisions

Sec. 511. Reduction of value taken into account for estate tax purposes where spouse of decedent materially participated in farm or other business.
Sec. 512. Treatment of certain interests held by decedent's family for purposes of the extension of time for payment of estate tax provided by section 6166.
Sec. 513. Subordination of special liens for additional estate tax attributable to farm, etc., valuation.
Sec. 514. Amendment of governing instruments to meet requirements for gifts of split interest to charity.
Sec. 515. Deferral of carryover basis rules.

Subtitle C—Other Excise Tax Provisions

Sec. 520 Reduction of administration tax on private foundations.
Sec. 521. Excise tax on certain gaming devices.
Sec. 522. Treatment of certain private foundations for purposes of section 4942.

Subtitle D—Income Tax Provisions

Sec. 530. Controversies involving whether individuals are employees for purposes of the employment taxes.
Sec. 531. Certain original stockholders of cooperative housing corporations.

Subtitle E—Other Income Tax Provisions

Sec. 540. Deposits in certain branches of Puerto Rican savings and loan associations.
Sec. 541. Taxation of Alaska Native Claims Settlement Act corporations.
Sec. 542. Replacement of livestock with other farm property where there has been environmental contamination.
Sec. 543. Certain payments not included in gross income.

Subtitle F—Studies

Sec. 551. Study of simplification of tax returns.
Sec. 552. Study of tax incentives for expenditures required by Occupational Safety and Health Administration and Mining Health and Safety Administration.
Sec. 553. Study of taxation of nonresident alien real estate transactions in the United States.
Sec. 554. Report on effectiveness of jobs credit.
Sec. 555. Study of effects of changes in the tax treatment of capital gains on stimulating investment and economic growth.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

Sec. 601. Establishment and taxation of general stock ownership corporations and their shareholders.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

Sec. 701. Technical amendments to income tax provisions and administrative provisions.
Sec. 702. Technical, clerical, and conforming amendment to estate and gift tax provisions.
Sec. 703. Corrections of punctuation, spelling, incorrect cross references, etc.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

Sec. 801. Grants to States for social services.
Sec. 802. Change in public assistance matching formula, and increase in amount of public assistance dollar limitations, for Puerto Rico, the Virgin Islands, and Guam in fiscal year 1979.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

SEC. 3. POLICY WITH RESPECT TO ADDITIONAL TAX REDUCTIONS.

26 USC 1 note.

As a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed 1 percent per year between fiscal year 1979 and fiscal year 1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the Federal budget should be balanced in fiscal years 1982 and 1983. If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these tax reductions are justified in the light of prevailing and expected economic conditions.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

SEC. 101. WIDENING OF BRACKETS; RATE CUTS IN CERTAIN BRACKETS; INCREASE IN ZERO BRACKET AMOUNTS.

26 USC 1.

(a) Rate Reduction.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) Married Individuals Filing Joint Returns and Surviving Spouses.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,400	No Tax.
Over $3,400 but not over $5,500	14% of excess over $3,400.
Over $5,500 but not over $7,600	$294, plus 16% of excess over $5,500.
Over $7,600 but not over $11,900	$630, plus 18% of excess over $7,600.
Over $11,900 but not over $16,000	$1,404, plus 21% of excess over $11,900.
Over $16,000 but not over $20,200	$2,265, plus 24% of excess over $16,000.
Over $20,200 but not over $24,600	$3,273, plus 28% of excess over $20,200.
Over $24,600 but not over $29,900	$4,505, plus 32% of excess over $24,600.
Over $29,900 but not over $35,200	$6,201, plus 37% of excess over $29,900.
Over $35,200 but not over $45,800	$8,162, plus 43% of excess over $35,200.
Over $45,800 but not over $60,000	$12,720, plus 49% of excess over $45,800.

"If taxable income is:	The tax is:
Over $60,000 but not over $85,600	$19,678, plus 54% of excess over $60,000.
Over $85,600 but not over $109,400	$33,502, plus 59% of excess over $85,600.
Over $109,400 but not over $162,400	$47,544, plus 64% of excess over $109,400.
Over $162,400 but not over $215,400	$81,464, plus 68% of excess over $162,400.
Over $215,400	$117,504, plus 70% of excess over $215,400.

"(b) Heads of Households.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	14% of excess over $2,300.
Over $4,400 but not over $6,500	$294, plus 16% of excess over $4,400.
Over $6,500 but not over $8,700	$630, plus 18% of excess over $6,500.
Over $8,700 but not over $11,800	$1,026, plus 22% of excess over $8,700.
Over $11,800 but not over $15,000	$1,708, plus 24% of excess over $11,800.
Over $15,000 but not over $18,200	$2,476, plus 26% of excess over $15,000.
Over $18,200 but not over $23,500	$3,308, plus 31% of excess over $18,200.
Over $23,500 but not over $28,800	$4,951, plus 36% of excess over $23,500.
Over $28,800 but not over $34,100	$6,859, plus 42% of excess over $28,800.
Over $34,100 but not over $44,700	$9,085, plus 46% of excess over $34,100.
Over $44,700 but not over $60,600	$13,961, plus 54% of excess over $44,700.
Over $60,600 but not over $81,800	$22,547, plus 59% of excess over $60,600.
Over $81,800 but not over $108,300	$35,055, plus 63% of excess over $81,800.
Over $108,300 but not over $161,300	$51,750, plus 68% of excess over $108,300.
Over $161,300	$87,790, plus 70% of excess over $161,300.

"(c) Unmarried Individuals (Other Than Surviving Spouses and Heads of Households).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	14% of excess over $2,300.
Over $3,400 but not over $4,400	$154, plus 16% of excess over $3,400.
Over $4,400 but not over $6,500	$314, plus 18% of excess over $4,400.
Over $6,500 but not over $8,500	$692, plus 19% of excess over $6,500.
Over $8,500 but not over $10,800	$1,072, plus 21% of excess over $8,500.
Over $10,800 but not over $12,900	$1,555, plus 24% of excess over $10,800.
Over $12,900 but not over $15,000	$2,059, plus 26% of excess over $12,900.
Over $15,000 but not over $18,200	$2,605, plus 30% of excess over $15,000.
Over $18,200 but not over $23,500	$3,565, plus 34% of excess over $18,200.
Over $23,500 but not over $28,800	$5,367, plus 39% of excess over $23,500.
Over $28,800 but not over $34,100	$7,434, plus 44% of excess over $28,800.
Over $34,100 but not over $41,500	$9,766, plus 49% of excess over $34,100.
Over $41,500 but not over $55,300	$13,392, plus 55% of excess over $41,500.
Over $55,300 but not over $81,800	$20,982, plus 63% of excess over $55,300.
Over $81,800 but not over $108,300	$37,677, plus 68% of excess over $81,800.

"If taxable income is:	The tax is:
Over $108,300	$55,697, plus 70% of excess over $108,300.

"(d) **Married Individuals Filing Separate Returns.**—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	14% of excess over $1,700.
Over $2,750 but not over $3,800	$147, plus 16% of excess over $2,750.
Over $3,800 but not over $5,950	$315, plus 18% of excess over $3,800.
Over $5,950 but not over $8,000	$702, plus 21% of excess over $5,950.
Over $8,000 but not over $10,100	$1,132.50, plus 24% of excess over $8,000.
Over $10,100 but not over $12,300	$1,636.50, plus 28% of excess over $10,100.
Over $12,300 but not over $14,950	$2,252.50, plus 32% of excess over $12,300.
Over $14,950 but not over $17,600	$3,100.50, plus 37% of excess over $14,950.
Over $17,600 but not over $22,900	$4,081, plus 43% of excess over $17,600.
Over $22,900 but not over $30,000	$6,360, plus 49% of excess over $22,900.
Over $30,000 but not over $42,800	$9,839, plus 54% of excess over $30,000.
Over $42,800 but not over $54,700	$16,751, plus 59% of excess over $42,800.
Over $54,700 but not over $81,200	$23,772, plus 64% of excess over $54,700.
Over $81,200 but not over $107,700	$40,732, plus 68% of excess over $81,200.
Over $107,700	$58,752, plus 70% of excess over $107,700.

"(e) **Estates and Trusts.**—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,050	14% of taxable income.
Over $1,050 but not over $2,100	$147, plus 16% of excess over $1,050.
Over $2,100 but not over $4,250	$315, plus 18% of excess over $2,100.
Over $4,250 but not over $6,300	$702, plus 21% of excess over $4,250.
Over $6,300 but not over $8,400	$1,132.50 plus 24% of excess over $6,300.
Over $8,400 but not over $10,600	$1,636.50, plus 28% of excess over $8,400.
Over $10,600 but not over $13,250	$2,252.50, plus 32% of excess over $10,600.
Over $13,250 but not over $15,900	$3,100.50, plus 37% of excess over $13,250.
Over $15,900 but not over $21,200	$4,081, plus 43% of excess over $15,900.
Over $21,200 but not over $28,300	$6,360, plus 49% of excess over $21,200.
Over $28,300 but not over $41,100	$9,839, plus 54% of excess over $28,300.
Over $41,100 but not over $53,000	$16,751, plus 59% of excess over $41,100.
Over $53,000 but not over $79,500	$23,772, plus 64% of excess over $53,000.
Over $79,500 but not over $106,000	$40,732, plus 68% of excess over $79,500.
Over $106,000	$58,752, plus 70% of excess over $106,000.".

(b) **Increase in Zero Bracket Amount.**—Subsection (d) of section 63 (defining zero bracket amount) is amended— 26 USC 63.

(1) by striking out "$3,200" and inserting in lieu thereof "$3,400",

(2) by striking out "$2,200" and inserting in lieu thereof "$2,300", and

(3) by striking out "$1,600" and inserting in lieu thereof "$1,700".

26 USC 6012.

(c) Filing Requirements.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,050",

(2) by striking out "$3,950" and inserting in lieu thereof "$4,150", and

(3) by striking out "$4,700" and inserting in lieu thereof "$4,900".

(d) Technical Amendments.—

26 USC 402.

(1) Subparagraph (C) of section 402(e)(1) (relating to tax on lump sum distributions) is amended by striking out "$2,200" and inserting in lieu thereof "$2,300".

26 USC 1302.

(2) Paragraph (3) of section 1302(b) (relating to transitional rule for determining base period income) is amended to read as follows:

"(3) Transitional rule for determining base period income.—The base period income (determined under paragraph (2)) for any taxable year beginning before January 1, 1977, shall be increased by—

"(A) $3,200 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

26 USC 2.

"(B) $2,200 in the case of an individual who is not married (within the meaning of section 143) and is not a surviving spouse (as so defined), or

"(C) $1,600 in the case of a married individual (within the meaning of section 143) filing a separate return.

26 USC 143.

For purposes of this paragraph, filing status shall be determined as of the computation year."

(e) Withholding Amendments.—

26 USC 3402.

(1) Withholding tables.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 and the amendments made by section 101 of the Revenue Act of 1978.".

91 Stat. 127, 135.
Ante, p. 2767.

(2) Withholding allowances based on itemized deductions.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$3,200" and inserting in lieu thereof "$3,400", and

(B) by striking out "$2,200" and inserting in lieu thereof "$2,300".

(f) Effective Dates.—

26 USC 1 note.

(1) In general.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after December 31, 1978.

(2) **Withholding amendments.**—The amendments made by subsection (e) shall apply to remuneration paid after December 31, 1978. 26 USC 3402 note.

SEC. 102. PERSONAL EXEMPTIONS INCREASED TO $1,000.

(a) **General Rule.**—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$750" each place it appears and inserting in lieu thereof "$1,000". 26 USC 151.

(b) **Filing Requirements.**—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as amended by section 101(c) of this Act, is amended by striking out "$750", "$3,050", "$4,150", and "$4,900" each place they appear and inserting in lieu thereof "$1,000", "$3,300", "$4,400", and "$5,400", respectively. 26 USC 6012.

(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" and "$1,500" each place they appear and inserting in lieu thereof "$1,000" and "$2,000", respectively. 26 USC 6013.

(c) **Withholding Requirements.**—

(1) Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table and inserting in lieu thereof the following: 26 USC 3402.

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption
Weekly	$19.23
Biweekly	38.46
Semimonthly	41.66
Monthly	83.33
Quarterly	250.00
Semiannual	500.00
Annual	1,000.00
Daily or miscellaneous (per day of such period)	2.74".

(2) Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "$750" and inserting in lieu thereof "$1,000".

(d) **Effective Dates.**—

(1) **In general.**—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1978. 26 USC 151 note.

(2) **Withholding amendments.**—The amendments made by subsection (c) shall apply with respect to remuneration paid after December 31, 1978. 26 USC 3402 note.

SEC. 103. EARNED INCOME CREDIT MADE PERMANENT.

(a) **General Rule.**—Subsection (b) of section 209 of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1979". 26 USC 43 note.

(b) **Technical Amendment.**—The second sentence of section 401(e) of the Tax Reform Act of 1976 (as added by section 103 of the Tax Reduction and Simplification Act of 1977) is amended by striking out ", and shall cease to apply to taxable years beginning after December 31, 1978". 26 USC 42 note.

SEC. 104. INCREASE IN AND SIMPLIFICATION OF THE EARNED INCOME TAX CREDIT.

26 USC 43.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended—

(1) by striking out "chapter" and inserting in lieu thereof "subtitle", and

(2) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(b) REVISION OF THE LIMITATION.—Subsection (b) of section 43 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $500, over

"(2) 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $6,000.".

(c) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—Section 43 is amended by adding at the end thereof the following new subsection:

"(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between $0 and $10,000, and

"(B) for adjusted gross income between $6,000 and $10,000.".

(d) EXCLUDABLE EARNED INCOME TAKEN INTO ACCOUNT.—Subparagraph (B) of section 43(c)(2) (defining earned income) is amended by striking out clause (i) and by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(e) DEFINITION OF ELIGIBLE INDIVIDUAL.—Paragraph (1) of section 43(c) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who, for the taxable year—

26 USC 143.
26 USC 151.

"(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)),

26 USC 2.

"(ii) is a surviving spouse (as determined under section 2(a)), or

"(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

"(B) CHILD MUST RESIDE WITH TAXPAYER IN THE UNITED STATES.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual and such abode is in the United States. An individual shall be treated as satisfying clause (ii) or (iii) of subparagraph (A) only if the household in question is in the United States.

26 USC 911.

"(C) INDIVIDUAL ENTITLED TO EXCLUDE INCOME UNDER SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).". 26 USC 911. 26 USC 931.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 43 note.

SEC. 105. ADVANCE PAYMENT OF EARNED INCOME CREDIT.

(a) COORDINATION OF CREDIT WITH ADVANCE PAYMENTS.—Section 43 (relating to earned income credit) is amended by adding at the end thereof the following new subsection: 26 USC 43.

"(h) COORDINATION WITH ADVANCE PAYMENTS OF EARNED INCOME CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made to the individual by an employer under section 3507 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments. *Infra.*

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.".

(b) ADVANCE PAYMENT OF EARNED INCOME CREDIT.—

(1) IN GENERAL.—Chapter 25 (general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3507. ADVANCE PAYMENT OF EARNED INCOME CREDIT.

26 USC 3507.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom an earned income eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's earned income advance amount.

"(b) EARNED INCOME ELIGIBILITY CERTIFICATE.—For purposes of this title, an earned income eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 43 for the taxable year,

"(2) certifies that the employee does not have an earned income eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

"(3) states whether or not the employee's spouse has an earned income eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) EARNED INCOME ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'earned income advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

26 USC 3402.

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

Ante, pp. 2772, 2773.

"(i) of not more than 10 percent of the first $5,000 of earned income, which

"(ii) phases out between $6,000 and $10,000 of earned income, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of not more than 10 percent of the first $2,500 of earned income, which

"(ii) phases out between $3,000 and $5,000 of earned income.

"(d) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(1) IN GENERAL.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

"(A) shall not be treated as the payment of compensation, and

"(B) shall be treated as made out of—

"(i) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding), and

26 USC 3401.

"(ii) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

26 USC 3102.

"(iii) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes),

26 USC 3111.

as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

"(2) ADVANCE PAYMENTS EXCEED TAXES DUE.—In the case of any employer, if for any payroll period the aggregate amount of earned income advance payments exceeds the sum of the amounts referred to in paragraph (1)(B), each such advance payment shall be reduced by an amount which bears the same ratio to such excess as such advance payment bears to the aggregate amount of all such advance payments.

"(3) EMPLOYER MAY MAKE FULL ADVANCE PAYMENTS.—The Secretary shall prescribe regulations under which an employer may elect (in lieu of any application of paragraph (2))—

"(A) to pay in full all earned income advance amounts, and

"(B) to have additional amounts paid by reason of this paragraph treated as the advance payment of taxes imposed by this title.

"(4) FAILURE TO MAKE ADVANCE PAYMENTS.—For purposes of this title (including penalties), failure to make any advance payment under this section at the time provided therefor shall be treated as the failure at such time to deduct and withhold under chapter 24 an amount equal to the amount of such advance payment.

26 USC 3401 *et seq.*

"(e) Furnishing and Taking Effect of Certificates.—For purposes of this section—

"(1) When certificate takes effect.—

"(A) First certificate furnished.—An earned income eligibility certificate furnished the employer in cases in which no previous such certificate had been in effect for the calendar year shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished (or if later, the first day of the calendar year for which furnished).

"(B) Later certificate.—An earned income eligibility certificate furnished the employer in cases in which a previous such certificate had been in effect for the calendar year shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days after the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished. For purposes of this section, the term 'status determination date' means January 1, May 1, July 1, and October 1 of each year.

"(2) Period during which certificate remains in effect.—An earned income eligibility certificate which takes effect under this section for any calendar year shall continue in effect with respect to the employee during such calendar year until revoked by the employee or until another such certificate takes effect under this section.

"(3) Change of status.—

"(A) Requirement to revoke or furnish new certificate.—If, after an employee has furnished an earned income eligibility certificate under this section, there has been a change of circumstances which has the effect of—

"(i) making the employee ineligible for the credit provided by section 43 for the taxable year, or

Ante, pp. 2772, 2773.

"(ii) causing an earned income eligibility certificate to be in effect with respect to the spouse of the employee,

the employee shall, within 10 days after such change in circumstances, furnish the employer with a revocation of such certificate or with a new certificate (as the case may be). Such a revocation (or such a new certificate) shall take effect under the rules provided by paragraph (1)(B) for a later certificate and shall be made in such form as the Secretary shall by regulations prescribe.

"(B) Certificate no longer in effect.—If, after an employee has furnished an earned income eligibility certificate under this section which certifies that such a certificate is in effect with respect to the spouse of the employee, such a certificate is no longer in effect with respect to such spouse, then the employee may furnish the employer with a new earned income eligibility certificate.

"(4) FORM AND CONTENTS OF CERTIFICATE.—Earned income eligibility certificates shall be in such form and contain such other information as the Secretary may by regulations prescribe.

"(5) TAXABLE YEAR DEFINED.—The term 'taxable year' means the last taxable year of the employee under subtitle A beginning in the calendar year in which the wages are paid.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3507. Advance payment of earned income credit.".

26 USC 6051.

(c) INFORMATION SHOWN ON W-2.—The first sentence of section 6051(a) (relating to receipts for employees) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new paragraph:

"(7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).".

26 USC 6012.

(d) REQUIREMENT OF RETURN.—Subsection (a) of section 6012 (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph:

Ante, p. 2773.

"(8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit).".

26 USC 6302.

(e) CROSS REFERENCE.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For treatment of payment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).".

26 USC 43 note.

(f) DISREGARD TO TERMINATE IN 1980.—Section 2(d) of the Revenue Adjustment Act of 1975 (relating to disregard of refund) is amended—

26 USC 3507.

(1) by inserting before "shall not be taken into account" the following: ", and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit)", and

(2) by inserting after "shall not be taken into account" the following: "in any year ending before 1980".

(g) EFFECTIVE DATE.—

26 USC 43 note.

(1) The amendments made by subsections (a) and (d) shall apply to taxable years beginning after December 31, 1978.

26 USC 3507 note.

(2) The amendments made by subsections (b), (c), and (e) shall apply to remuneration paid after June 30, 1978.

26 USC 43 note.

(3) Subsection (f) shall take effect on the date of the enactment of this Act.

SEC. 106. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS.

26 USC 21.

Section 21 (relating to effects of changes in rate of tax) is amended by adding at the end thereof the following new subsection:

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year—

Ante, pp. 2767, 2771; *Post*, p. 2820.

"(1) the amendments made by sections 101, 102, and 301 of the Revenue Act of 1978 (and no other amendments made by such Act), and

26 USC 42.

"(2) the expiration of section 42 (relating to general tax credit), shall be treated as a change in a rate of tax.".

Subtitle B—Itemized Deductions; Etc.

SEC. 111. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164(a) (relating to deduction for taxes) is hereby repealed. 26 USC 164.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 164 note.

SEC. 112. TAXATION OF UNEMPLOYMENT COMPENSATION BENEFITS AT CERTAIN INCOME LEVELS.

(a) INCLUSION IN GROSS INCOME.—Part II of subchapter B of chapter 1 (relating to amounts specifically included in gross income) is amended by adding at the end thereof the following new section: 26 USC 71.

"SEC. 85. UNEMPLOYMENT COMPENSATION. 26 USC 85.

"(a) IN GENERAL.—If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to this section and without regard to section 105(d)) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of— 26 USC 105.

"(1) one-half of the amount of the excess of such sum over the base amount, or

"(2) the amount of the unemployment compensation.

"(b) BASE AMOUNT DEFINED.—For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), $20,000,

"(2) $25,000, in the case of a joint return under section 6013, or 26 USC 6013.

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and 26 USC 143.

"(B) does not live apart from his spouse at all times during the taxable year.

"(c) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation.".

(b) REPORTING OF UNEMPLOYMENT COMPENSATION PAYMENTS.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050B. RETURNS RELATING TO UNEMPLOYMENT COMPENSATION. 26 USC 6050B.

"(a) REQUIREMENT OF REPORTING.—Every person who makes payments of unemployment compensation aggregating $10 or more to any individual during any calendar year shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Furnished.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made. No statement shall be required to be furnished to any individual under this subsection if the aggregate amount of payments to such individual shown on the return made under subsection (a) is less than $10.

"(c) Definitions.—For purposes of this section—

"(1) Unemployment compensation.—The term 'unemployment compensation' has the meaning given to such term by 26 USC 85. section 85(c).

"(2) Person.—The term 'person' means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section."

(c) Clerical Amendments.—

(1) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 85. Unemployment compensation."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050B. Returns relating to unemployment compensation.".

26 USC 85 note. (d) Effective Date.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date.

SEC. 113. REPEAL OF DEDUCTION FOR POLITICAL CONTRIBUTIONS; INCREASE IN CREDIT.

(a) Repeal of Deduction.—

26 USC 218. (1) Repeal.—Section 218 (relating to deduction for contributions to candidates for public office and newsletter funds) is hereby repealed.

(2) Conforming amendments.—

(A) The table of sections for part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by striking out the item relating to section 218.

26 USC 642. (B) Section 642 (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

26 USC 41. (c) Increase in Amount of Credit.—Paragraph (1) of section 41(b) (relating to maximum credit) is amended by striking out "$25" and "$50" and inserting in lieu thereof "$50" and "$100", respectively.

26 USC 41 note. (d) Effective Date.—The amendments made by this section shall apply with respect to contributions the payment of which is made after December 31, 1978, in taxable years beginning after such date.

Subtitle C—Credits

SEC. 121. PAYMENTS TO RELATED INDIVIDUALS UNDER CHILD CARE CREDIT.

(a) In General.—Paragraph (6) of section 44A(f) (relating to payments to related individuals) is amended to read as follows: 26 USC 44A.

"(6) Payments to related individuals.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or 26 USC 151.

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed." "Taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978. 26 USC 44A note.

Subtitle D—Deferred Compensation

PART I—DEFERRED COMPENSATION PROVISIONS

SEC. 131. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

26 USC 457.

(a) In General.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable years for which gross income included) is amended by adding at the end thereof the following new section:

"SEC. 457. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

"(a) Year of Inclusion in Gross Income.—In the case of a participant in an eligible State deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

"(b) Eligible State Deferred Compensation Plan Defined.—For purposes of this section, the term 'eligible State deferred compensation plan' means a plan established and maintained by a State—

"(1) in which only individuals who perform service for the State may be participants,

"(2) which provides that (except as provided in paragraph (3)) the maximum that may be deferred under the plan for the taxable year shall not exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

"(4) which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

"(5) which does not provide that amounts payable under the plan will be made available to participants or other beneficiaries earlier than when the participant is separated from service with the State or is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary by regulation), and

"(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property and rights purchased with such amounts, and

"(C) all income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the State (without being restricted to the provision of benefits under the plan) subject only to the claims of the State's general creditors.

A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the first plan year beginning more than 180 days after the date of notification by the Secretary of the inconsistency unless the State corrects the inconsistency before the first day of such plan year.

"(c) INDIVIDUALS WHO ARE PARTICIPANTS IN MORE THAN ONE PLAN.—

"(1) IN GENERAL.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

26 USC 403.

"(2) COORDINATION WITH SECTION 403(b).—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b), an amount excluded during a taxable year under section 403(b) shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATE.—The term 'State' means a State, a political subdivision of a State, and an agency or instrumentality of a State or political subdivision of a State.

"(2) PERFORMANCE OF SERVICE.—The performance of service includes performance of service as an independent contractor.

"(3) PARTICIPANT.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) BENEFICIARY.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' means compensation for service performed for the State which (taking into account the provisions of this section and section 403(b)) is currently includible in gross income.

"(6) COMPENSATION TAKEN INTO ACCOUNT AT PRESENT VALUE.—Compensation shall be taken into account at its present value.

"(7) COMMUNITY PROPERTY LAWS.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) INCOME ATTRIBUTABLE.—Gains from the disposition of property shall be treated as income attributable to such property.

"(9) SECTION TO APPLY TO RURAL ELECTRIC COOPERATIVES.—

"(A) IN GENERAL.—This section shall apply with respect to any participant in a plan of a rural electric cooperative in the same manner and to the same extent as if such plan were a plan of a State.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization described in section 501(c)(12) which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service, and 26 USC 501.

"(ii) any organization described in section 501(c)(6) which is exempt from tax under section 501(a) and all the members of which are organizations described in clause (i).

"(e) TAX TREATMENT OF PARTICIPANTS WHERE PLAN OR ARRANGEMENT OF STATE IS NOT ELIGIBLE.—

"(1) IN GENERAL.—In the case of a plan of a State providing for a deferral of compensation, if such plan is not an eligible State deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.). 26 USC 72.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), 26 USC 401. 26 USC 501.

"(B) an annuity plan or contract described in section 403, 26 USC 403.

"(C) a qualified bond purchase plan described in section 405(a), 26 USC 405.

"(D) that portion of any plan which consists of a transfer of property described in section 83, and 26 USC 83.

"(E) that portion of any plan which consists of a trust to which section 402(b) applies. 26 USC 402.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(B) **Substantial risk of forfeiture.**—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) **Clerical Amendment.**—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 457. Deferred compensation plans with respect to service for State and local governments.".

26 USC 457 note.

(c) **Effective Date.**—

(1) **In general.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

(2) **Transitional rules.**—

(A) **In general.**—In the case of any taxable year beginning after December 31, 1978, and before January 1, 1982—

(i) any amount of compensation deferred under a plan of a State providing for a deferral of compensation (other than a plan described in section 457(e)(2) of the Internal Revenue Code of 1954), and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary, but

Ante, p. 2779.

(ii) the maximum amount of the compensation of any one individual which may be excluded from gross income by reason of clause (i) and by reason of section 457(a) of such Code during any such taxable year shall not exceed the lesser of—

(I) $7,500, or

(II) 33⅓ percent of the participant's includible compensation.

(B) **Application of catch-up provisions in certain cases.**—If, in the case of any participant for any taxable year, all of the plans are eligible State deferred compensation plans, then clause (ii) of subparagraph (A) of this paragraph shall be applied with the modification provided by paragraph (3) of section 457(b) of such Code.

(C) **Applications of certain coordination provisions.**—In applying clause (ii) of subparagraph (A) of this paragraph and section 403(b)(2)(A)(ii) of such Code, rules similar to the rules of section 457(c)(2) of such Code shall apply.

26 USC 403.
Ante, p. 2779.

(D) **Meaning of terms.**—Except as otherwise provided in this paragraph, terms used in this paragraph shall have the same meaning as when used in section 457 of such Code.

SEC. 132. CERTAIN PRIVATE DEFERRED COMPENSATION PLANS.

26 USC 451 note.

(a) **General Rule.**—The taxable year of inclusion in gross income of any amount covered by a private deferred compensation plan shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

(b) **Private Deferred Compensation Plan Defined.**—

(1) **In general.**—For purposes of this section, the term "private deferred compensation plan" means a plan, agreement, or arrangement—

(A) where the person for whom the service is performed is not a State (within the meaning of paragraph (1) of section

457(d) of the Internal Revenue Code of 1954) and not an organization which is exempt from tax under section 501 of such Code, and *Ante*, p. 2779. 26 USC 501.

(B) under which the payment or otherwise making available of compensation is deferred.

(2) CERTAIN PLANS EXCLUDED.—Paragraph (1) shall not apply to—

(A) a plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a) of such Code, 26 USC 401. 26 USC 501.

(B) an annuity plan or contract described in section 403 of such Code, 26 USC 403.

(C) a qualified bond purchase plan described in section 405(a) of such Code, 26 USC 405.

(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof) of such Code, and 26 USC 83. 26 USC 402.

(E) that portion of any plan which consists of a trust to which section 402(b) of such Code applies.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after February 1, 1978.

SEC. 133. CLARIFICATION OF DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by inserting after subsection (c) the following new subsection: 26 USC 404.

"(d) DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.—If a plan would be described in so much of subsection (a) as precedes paragraph (1) thereof (as modified by subsection (b)) but for the fact that there is no employer-employee relationship, the contributions or compensation—

"(1) shall not be deductible by the payor thereof under section 162 or 212, but 26 USC 162, 212.

"(2) shall (if they would be deductible under section 162 or 212 but for paragraph (1)) be deductible under this subsection for the taxable year in which an amount attributable to the contribution or compensation is includible in the gross income of the persons participating in the plan."

(b) CLARIFICATION OF SECTION 404(b).—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended by striking out "similar plan" and inserting in lieu thereof "other plan". 26 USC 404.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deductions for taxable years beginning after December 31, 1978. 26 USC 404 note.

SEC. 134. TAX TREATMENT OF CAFETERIA PLANS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 125 as section 126 and by inserting after section 124 the following new section: 26 USC 126.

"SEC. 125. CAFETERIA PLANS.

26 USC 125.

"(a) IN GENERAL.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

"(b) Exception for Highly Compensated Participants Where Plan is Discriminatory.—

"(1) In general.—In the case of a highly compensated participant, subsection (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

"(A) highly compensated individuals as to eligibility to participate, or

"(B) highly compensated participants as to contributions and benefits.

"(2) Year of inclusion.—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

"(c) Discrimination as to Benefits or Contributions.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

"(d) Cafeteria Plan Defined.—For purposes of this section—

"(1) In general.—The term 'cafeteria plan' means a written plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among two or more benefits.

The benefits which may be chosen may be nontaxable benefits, or cash, property, or other taxable benefits.

"(2) Deferred compensation plans excluded.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(e) Highly Compensated Participant and Individual Defined.—For purposes of this section—

"(1) Highly compensated participant.—The term 'highly compensated participant' means a participant who is—

"(A) an officer,

"(B) a shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,

"(C) highly compensated, or

"(D) a spouse or dependent (within the meaning of section 152) of an individual described in subparagraph (A), (B), or (C).

26 USC 152.

"(2) Highly compensated individual.—The term 'highly compensated individual' means an individual who is described in subparagraphs (A), (B), (C), or (D) of paragraph (1).

"(f) Nontaxable Benefit Defined.—For purposes of this section, the term 'nontaxable benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee.

"(g) Special Rules.—

"(1) Collectively bargained plan not considered discriminatory.—For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

"(2) **Health benefits.**—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

"(A) contributions under the plan on behalf of each participant include an amount which—

"(i) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

"(ii) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

"(B) contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

"(3) **Certain participation eligibility rules not treated as discriminatory.**—For purposes of subparagraph (A) of subsection (b)(1), a classification shall not be treated as discriminatory if the plan—

"(A) benefits a group of employees described in subparagraph (B) of section 410(b)(1), and

26 USC 410.

"(B) meets the requirements of clauses (i) and (ii):

"(i) No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the service requirement for each employee is the same.

"(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the service requirement was satisfied unless the employee was separated from service before the first day of that plan year.

"(4) **Certain controlled groups.**—All employees who are treated as employed by a single employer under subsection (b) or (c) of section 414 shall be treated as employed by a single employer for purposes of this section.

26 USC 414.

"(h) **Regulations.**—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) **Clerical Amendment.**—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 125. Cafeteria plans.
"Sec. 126. Cross references to other Acts."

(c) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

26 USC 125 note.

SEC. 135. CERTAIN CASH OR DEFERRED ARRANGEMENTS.

(a) **In General.**—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (k) as (l) and by inserting after subsection (j) the following new subsection:

26 USC 401.

"(k) **Cash or Deferred Arrangements.**—

"(1) **General rule.**—A profit-sharing or stock bonus plan shall not be considered as not satisfying the requirements of subsection (a) merely because the plan includes a qualified cash or deferred arrangement.

"(2) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—A qualified cash or deferred arrangement is any arrangement which is part of a profit-sharing or stock bonus plan which meets the requirements of subsection (a)—

"(A) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash;

"(B) under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than upon retirement, death, disability, or separation from service, hardship or the attainment of age 59½, and will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and

"(C) which provides that an employee's right to his accrued benefit derived from employer contributions made to the trust pursuant to his election are nonforfeitable.

"(3) APPLICATION OF PARTICIPATION AND DISCRIMINATION STANDARDS.—

"(A) A qualified cash or deferred arrangement shall be considered to satisfy the requirements of subsection (a)(4), with respect to the amount of contributions, and of subparagraph (B) of section 410(b)(1) for a plan year if those employees eligible to benefit under the plan satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1) and if the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such plan year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests: 26 USC 410.

"(i) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(ii) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

"(B) For purposes of subparagraph (A), the actual deferral percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(i) the amount of employer contributions actually paid over to the trust on behalf of each such employee for such plan year, to

"(ii) the employee's compensation for such plan year.

For purposes of the preceding sentence, the compensation of any employee for a plan year shall be the amount of his compensation which is taken into account under the plan in calculating the contribution which may be made on his behalf for such plan year.

"(4) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' means any employee who is more highly compensated than two-thirds of all eligible employees, taking into account only compensation which is considered in applying paragraph (3)."

(b) TAXABILITY OF BENEFICIARIES.—Subsection (a) of section 402 is amended by adding at the end thereof the following new paragraph: 26 USC 402.

"(8) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash." 26 USC 401.

(c) EFFECTIVE DATE.— 26 USC 401 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1979.

(2) TRANSITIONAL RULE.—In the case of cash or deferred arrangements in existence on June 27, 1974—

(A) the qualification of the plan and the trust under section 401 of the Internal Revenue Code of 1954; 26 USC 401.

(B) the exemption of the trust under section 501(a) of such Code; 26 USC 501.

(C) the taxable year of inclusion in gross income of the employee of any amount so contributed by the employer to the trust; and

(D) the excludability of the interest of the employee in the trust under sections 2039 and 2517 of such Code, 26 USC 2039, 2517.

shall be determined for plan years beginning before January 1, 1980 in a manner consistent with Revenue Ruling 56-497 (1956-2 C.B. 284), Revenue Ruling 63-180 (1963-2 C.B. 189), and Revenue Ruling 68-89 (1968-1 C.B. 402).

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 141. ESOPS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to general rule for pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"SEC. 409A. QUALIFICATIONS FOR ESOPS.

26 USC 409A.

"(a) ESOP DEFINED.—Except as otherwise provided in this title, for purposes of this title, the term 'ESOP' means a defined contribution plan which—

"(1) meets the requirements of section 401(a), 26 USC 401.

"(2) is designed to invest primarily in employer securities, and

"(3) meets the requirements of subsections (b), (c), (d), (e), (f), (g), and (h) of this section.

"(b) REQUIRED ALLOCATION OF EMPLOYER SECURITIES.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan provides for the allocation for the plan year of all employer securities transferred to it or purchased by it (because of the requirements of section 48(n)(1)(A)) to the accounts of all participants who are entitled to share in such allocation, and

"(B) for the plan year the allocation to each participant so entitled is an amount which bears substantially the same proportion to the amount of all such securities allocated to all such participants in the plan for that year as the amount of compensation paid to such participant during that year bears to the compensation paid to all such participants during that year.

"(2) COMPENSATION IN EXCESS OF $100,000 DISREGARDED.—For purposes of paragraph (1), compensation of any participant in excess of the first $100,000 per year shall be disregarded.

"(3) DETERMINATION OF COMPENSATION.—For purposes of this subsection, the amount of compensation paid to a participant for any period is the amount of such participant's compensation (within the meaning of section 415(c)(3)) for such period.

26 USC 415.

"(4) SUSPENSION OF ALLOCATION IN CERTAIN CASES.—Notwithstanding paragraph (1), the allocation to the account of any participant which is attributable to the basic ESOP credit may be extended over whatever period may be necessary to comply with the requirements of section 415.

"(c) PARTICIPANTS MUST HAVE NONFORFEITABLE RIGHTS.—A plan meets the requirements of this subsection only if it provides that each participant has a nonforfeitable right to any employer security allocated to his account.

"(d) EMPLOYER SECURITIES MUST STAY IN THE PLAN.—A plan meets the requirements of this subsection only if it provides that no employer security allocated to a participants's account under subsection (b) may be distributed from that account before the end of the 84th month beginning after the month in which the security is allocated to the account. To the extent provided in the plan, the preceding sentence shall not apply in the case of separation from service, death, or disability.

"(e) VOTING RIGHTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if it meets the requirements of paragraph (2) or (3), whichever is applicable.

"(2) REQUIREMENTS WHERE EMPLOYER HAS A REGISTRATION-TYPE CLASS OF SECURITIES.—If the employer has a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted.

"(3) REQUIREMENT FOR OTHER EMPLOYERS.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted.

"(4) REGISTRATION-TYPE CLASS OF SECURITIES DEFINED.—For purposes of this subsection, the term, 'registration-type class of securities' means—

"(A) a class of securities required to be registered under section 12 of the Securities Exchange Act of 1934, and 15 USC 78*l*.

"(B) a class of securities which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(H) of such section 12.

"(f) Plan Must Be Established Before Employer's Due Date.—

"(1) In general.—A plan meets the requirements of this subsection for a plan year only if it is established on or before the due date for the filing of the employer's tax return for the taxable year (including any extensions of such date) in which or with which the plan year ends.

"(2) Special rule for first year.—A plan which otherwise meets the requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely 26 USC 401. because it was not established by the close of the first taxable year of the employer for which an ESOP credit is claimed by the employer.

"(g) Transferred Amounts Must Stay in Plan Even Though Investment Credit is Redetermined or Recaptured.—A plan meets the requirement of this subsection only if it provides that amounts which are transferred to the plan (because of the requirements of section 48(n)(1)) shall remain in the plan (and, if allocated under the 26 USC 48. plan, shall remain so allocated) even though part or all of the ESOP credit is recaptured or redetermined.

"(h) Right to Demand Employer Securities; Put Option.—

"(1) In general.—A plan meets the requirements of this subsection if a participant who is entitled to a distribution from the plan—

"(A) has a right to demand that his benefits be distributed in the form of employer securities, and

"(B) if the employer securities are not readily tradable on an established market, has a right to require that the employer repurchase employer securities under a fair valuation formula.

"(2) Plan may distribute cash in certain cases.—A plan which otherwise meets the requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely because under the plan the benefits may be distributed in cash or in the form of employer securities.

"(i) Reimbursement for Expenses of Establishing and Administering Plan.—A plan which otherwise meets the requirements of this section shall not be treated as failing to meet such requirements merely because it provides that—

"(1) Expenses of establishing plan.—As reimbursement for the expenses of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established (or the plan may pay) so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of—

"(A) 10 percent of the first $100,000 which the employer is required to transfer to the plan for that taxable year under section 48(n)(1), and

"(B) 5 percent of any amount so required to be transferred in excess of the first $100,000; and

"(2) Administrative expenses.—As reimbursement for the expenses of administering the plan, the employer may withhold from amounts due the plan (or the plan may pay) so much of the amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the lesser of—

"(A) the sum of—

"(i) 10 percent of the first $100,000 of the dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, and

"(ii) 5 percent of the amount of such dividends in excess of $100,000 or

"(B) $100,000.

"(j) Conditional Contributions to the Plan.—A plan which otherwise meets the requirements of this section shall not be treated as failing to satisfy such requirements (or as failing to satisfy the requirements of section 401(a) of this title or of section 403(c)(1) of the Employee Retirement Income Security Act of 1974) merely because of the return of a contribution (or a provision permitting such a return) if—

26 USC 401.
29 USC 1103.

"(1) the contribution to the plan is conditioned on a determination by the Secretary that such plan meets the requirements of this section,

"(2) the application for a determination described in paragraph (1) is filed with the Secretary not later than 90 days after the date on which an ESOP credit is claimed, and

"(3) the contribution is returned within 1 year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this section.

"(k) Requirements Relating to Certain Withdrawals.—Notwithstanding any other law or rule of law—

"(1) the withdrawal from a plan which otherwise meets the requirements of this section by the employer of an amount contributed for purposes of the matching ESOP credit shall not be considered to make the benefits forfeitable, and

"(2) the plan shall not, by reason of such withdrawal, fail to be for the exclusive benefit of participants or their beneficiaries,

if the withdrawn amounts were not matched by employee contributions or were in excess of the limitations of section 415. Any withdrawal described in the preceding sentence shall not be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974.

26 USC 415.

"(l) Employer Securities Defined.—For purposes of this section—

"(1) In general.—The term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) which is readily tradable on an established securities market.

"(2) Special rule where there is no readily tradable common stock.—If there is no common stock which meets the requirements of paragraph (1), the term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) having a combination of voting power and dividend rights equal to or in excess of—

"(A) that class of common stock of the employer (or of any other such corporation) having the greatest voting power, and

"(B) that class of stock of the employer (or of any other such corporation) having the greatest dividend rights.

"(3) **Preferred stock may be issued in certain cases.**—Noncallable preferred stock shall be treated as meeting the requirements of paragraph (1) if such stock is convertible at any time into stock which meets the requirements of paragraph (1) and if such conversion is at a conversion price which (as of the date of the acquisition by the ESOP) is reasonable.

"(4) **Controlled group of corporations defined.**—

"(A) **In general.**—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a) (determined without regard to subsections (a)(4) and (e)(3)(C) of section 1563). 26 USC 1563.

"(B) **Common parent may own only 50 percent of first tier subsidiary.**—For purposes of subparagraph (A), if the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock and at least 50 percent of each class of nonvoting stock in a first tier subsidiary, such subsidiary (and all other corporations below it in the chain which would meet the 80 percent test of section 1563(a) if the first tier subsidiary were the common parent) shall be treated as includible corporations.

"(m) **Contributions of Stock of Controlling Corporation.**—If the stock of a corporation which controls another corporation or which controls a corporation controlled by such other corporation is contributed to an ESOP of the controlled corporation, then no gain or loss shall be recognized, because of that contribution, to the controlled corporation. For purposes of this subsection, the term 'control' has the same meaning as that term has in section 368(c). 26 USC 368.

"(n) **Cross References.**—

"(1) For requirements for allowance of ESOP credit, see section 43(n).

"(2) For assessable penalties for failure to meet requirements of this section, or for failure to make contributions required with respect to the allowance of an ESOP credit, see section 6699."

(b) **Amendment of Investment Credit Rules.**—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (n) as subsection (p) and by inserting after subsection (m) the following new subsections: 26 USC 48.

"(n) **Requirements for Allowance of ESOP Percentage.**—

"(1) **In general.**—

"(A) **Basic esop percentage.**—The basic ESOP percentage shall not apply to any taxpayer for any taxable year unless the taxpayer on his return for such taxable year agrees, as a condition for the allowance of such percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to 1 percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46) for the taxable year, and 26 USC 46.

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(B) **Matching esop percentage.**—The matching ESOP percentage shall not apply to any taxpayer for any taxable year unless the basic ESOP percentage applies to such taxpayer for such taxable year, and the taxpayer on his return for such taxable year agrees, as a condition for the allowance of the matching ESOP percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to the sum of the qualified matching employee contributions made to such ESOP for the taxable year, and

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(C) Times for making transfers.—The aggregate of the transfers required under subparagraphs (A) and (B) shall be made—

"(i) to the extent allocable to that portion of the ESOP credit allowed for the taxable year or allowed as a carryback to a preceding taxable year, not later than 30 days after the due date (including extensions) for filing the return for the taxable year, or

"(ii) to the extent allocable to that portion of the ESOP credit which is allowed as a carryover in a succeeding taxable year, not later than 30 days after the due date (including extensions) for filing the return for such succeeding taxable year.

The Secretary may by regulations provide that transfers may be made later than the times prescribed in the preceding sentence where the amount of any credit or carryover or carryback for any taxable year exceeds the amount shown on the return for the taxable year.

"(D) Ordering rules.—For purposes of subparagraph (C), the portion of the ESOP credit allowed for the current year or as a carryover or carryback shall be determined—

"(i) first by treating the credit or carryover or carryback as attributable to the regular percentage,

"(ii) second by treating the portion (not allocated under clause (i)) of such credit or carryover or carryback as attributable to the basic ESOP percentage, and

"(iii) finally by treating the portion (not allocated under clause (i) or (ii) as attributable to the matching ESOP percentage.

"(2) Qualified matching employee contribution defined.—

"(A) In general.—For purposes of this subsection, the term 'qualified matching employee contribution' means, with respect to any taxable year, any contribution made by an employee to an ESOP maintained by the taxpayer if—

"(i) each employee who is entitled to an allocation of employer securities transferred to the ESOP under paragraph (1)(A) is entitled to make such a contribution,

"(ii) the contribution is designated by the employee as a contribution intended to be taken into account under this subparagraph for the taxable year,

"(iii) the contribution is paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year, and is invested forthwith in employer securities, and

"(iv) the ESOP meets the requirements of subparagraph (B).

"(B) Plan requirements.—For purposes of subparagraph (A), an ESOP meets the requirements of this subparagraph if—

"(i) participation in the ESOP is not required as a condition of employment and the ESOP does not require matching employee contributions as a condition of participation in the ESOP, "(ii) employee contributions under the ESOP meet the requirements of section 401(a)(4), and 26 USC 401.

"(iii) the ESOP provides for allocation of all employer securities transferred to it or purchased by it (because of the requirements of paragraph (1)(B)) to the account of each participant in an amount equal to such participant's matching employee contributions for the year.

"(3) CERTAIN CONTRIBUTIONS OF CASH TREATED AS CONTRIBUTIONS OF EMPLOYER SECURITIES.—For purposes of this subsection, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the ESOP, used within 30 days to purchase employer securities.

"(4) ADJUSTMENTS IF ESOP CREDIT RECAPTURED.—If any portion of the ESOP credit is recaptured under section 47 or the ESOP credit is reduced by a final determination— 26 USC 47.

"(A) the employer may reduce the amount required to be transferred to the ESOP under paragraph (1) for the current taxable year or any succeeding taxable year by an amount equal to such portion (or reduction), or

"(B) notwithstanding the provisions of paragraph (5) and to the extent not taken into account under subparagraph (A), the employer may deduct an amount equal to such portion (or reduction), subject to the limitations of section 404. 26 USC 404.

"(5) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under section 162, 212, or 404 for amounts required to be transferred to an ESOP under this subsection. 26 USC 162, 212, 404.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409A(l).

"(B) VALUE.—The term 'value' means—

"(i) in the case of securities listed on a national exchange, the average of closing prices of such securities for the 20 consecutive trading days immediately preceding the due date for filing the return for the taxable year (determined with regard to extensions), or

"(ii) in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations prescribed by the Secretary.

"(o) CERTAIN CREDITS DEFINED.—For purposes of this title—

"(1) REGULAR INVESTMENT CREDIT.—The term 'regular investment credit' means that portion of the credit allowable by section 38 which is attributable to the regular percentage. 26 USC 38.

"(2) ENERGY INVESTMENT CREDIT.—The term 'energy investment credit' means that portion of the credit allowable by section 38 which is attributable to the energy percentage.

"(3) ESOP CREDIT.—The term 'ESOP credit' means the sum of—

"(A) the basic ESOP credit, and

"(B) the matching ESOP credit.

"(4) BASIC ESOP CREDIT.—The term 'basic ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the basic ESOP percentage.

"(5) MATCHING ESOP CREDIT.—The term 'matching ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the matching ESOP.

"(6) BASIC ESOP PERCENTAGE.—The term 'basic ESOP percentage' means the 1-percent ESOP percentage set forth in section 46(a)(2)(E)(i). 26 USC 46.

"(7) MATCHING ESOP PERCENTAGE.—The term 'matching ESOP percentage' means the additional ESOP percentage (not to exceed ½ of 1 percent) set forth in section 46(a)(2)(E)(ii)."

(c) ASSESSABLE PENALTIES.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6699. "SEC. 6699. ASSESSABLE PENALTIES RELATING TO ESOP.

"(a) IN GENERAL.—If a taxpayer who has claimed an ESOP credit for any taxable year—

26 USC 409. "(1) fails to satisfy any requirement provided by section 409A, or

"(2) fails to make any contribution which is required under section 48(n) within the period required for making such contribution, 26 USC 48.

the taxpayer shall pay a penalty in an amount equal to the amount involved in such failure.

"(b) NO PENALTY WHERE THERE IS TIMELY CORRECTION OF FAILURE.—Subsection (a) shall not apply with respect to any failure if the employer corrects such failure (as determined by the Secretary) within 90 days after the Secretary notifies him of such failure.

"(c) AMOUNT INVOLVED DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'amount involved' means an amount determined by the Secretary.

"(2) MAXIMUM AND MINIMUM AMOUNT.—The amount determined under paragraph (1)—

"(A) shall not exceed the amount determined by multiplying the qualified investment of the employer for the taxable year to which the failure relates by the ESOP percentage claimed by the employer for such year, and

"(B) shall not be less than the product of one-half of 1 percent of the amount referred to in subparagraph (A), multiplied by the number of months (or parts thereof) during which such failure continues."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6699. Assessable penalties relating to ESOP."

26 USC 56. (d) REGULAR TAX DEDUCTION FOR PURPOSES OF THE MINIMUM TAX DETERMINED WITHOUT REGARD TO ESOP PERCENTAGE.—Subsection (c) of section 56 (defining regular tax deduction) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the amount of the credit allowable under section 38 shall be determined without regard to the ESOP percentage set forth in section 46(a)(2)(E)."

26 USC 46. (e) ESOP CREDIT EXTENDED FOR 3 YEARS.—Subparagraph (E) of section 46(a)(2) (relating to amount of business investment credit for current taxable year) is amended by striking out "and ending on December 31, 1980," each place it appears and inserting in lieu thereof "December 31, 1983".

(f) Technical and Conforming Amendments.—

(1) Subsections (d), (e), and (f) of section 301 of the Tax Reduction Act of 1975 are hereby repealed. Repeal. 26 USC 46 note.

(2) Subparagraph (E) of section 46(a)(2) is amended— 26 USC 46.

(A) by striking out "section 301(e) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 48(n)(1)(B)", and 26 USC 48.

(B) by striking out "section 301(d) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 409A".

(3) Paragraph (21) of section 401(a) is amended to read as follows: 26 USC 401.

"(21) A trust forming part of an ESOP shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in section 48(n)(1)." 26 USC 26. 26 USC 48.

(4) The last sentence of section 1504(a) (defining affiliated group) is amended to read as follows: 26 USC 1504.

"As used in this subsection, the term 'stock' does not include nonvoting stock which is limited and preferred as to dividends, employer securities (within the meaning for section 409A(l)) while such securities are held under an ESOP, or qualifying employer securities (within the meaning of section 4975(e)(8)) while such securities are held under a leveraged employee stock ownership plan which meets the requirements of section 4975(e)(7)." *Ante*, p. 2787. 26 USC 4975.

(5) Paragraph (7) of section 4975(e) (defining employee stock ownership plan) is amended— 26 USC 4975.

(A) by striking out "Employee" in the paragraph heading and inserting in lieu thereof "Leveraged employee", and

(B) by striking out "employee" in the text and inserting in lieu thereof "leveraged employee", and

(C) by adding at the end thereof the following new sentence:

"A plan shall not be treated as as leveraged employee stock ownership plan unless it meets the requirements of subsections (e) and (h) of section 409A." *Ante*, p. 2787.

(6) Paragraph (3) of section 4975(d) is amended by striking out "employee" and inserting in lieu thereof "leveraged employee". 26 USC 4975.

(7) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: 26 USC 415.

"(i) the term 'employee stock ownership plan' means a leveraged employee stock ownership plan (within the meaning of section 4975(e)(7)) or an ESOP, 26 USC 4975.

"(ii) the term 'employer securities' has the meaning given to such term by section 409A,". *Ante*, p. 2787.

(8) The table of sections for part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 409 the following new item:

"Sec. 409A. Qualification for ESOPs."

(9) Section 404(a)(2) and section 805(d) are each amended by striking out "and (20)" and inserting in lieu thereof "(20), and (22)". 26 USC 404, 805.

(g) Effective Dates.— 26 USC 409A note.

(1) In general.—The amendments made by this section (other than by subsection (f)(3)) shall apply with respect to qualified investment for taxable years beginning after December 31, 1978.

The amendment made by subsection (f)(7) shall apply to years beginning after December 31, 1978.

26 USC 56 note.
26 USC 6.
26 USC 38.
26 USC 46.
92 Stat. 3174.
26 USC 1 note.

(2) Retroactive application of amendment made by subsection (d).—In determining the regular tax deduction under section 6 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1979, the amount of the credit allowable under section 38 shall be determined without regard to section 46(a)(2)(B) of such Code (as in effect before the enactment of the Energy Tax Act of 1978).

SEC. 142. CERTAIN LUMP SUM DISTRIBUTIONS EXCLUDED FROM GROSS ESTATE WHERE RECIPIENT ELECTS NOT TO APPLY 10-YEAR AVERAGING.

26 USC 2039.
26 USC 402.

(a) In General.—Subsection (c) of section 2039 (relating to exemption of annuities under certain trusts and plans) is amended by striking out "(other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A))" and inserting in lieu thereof "(other than an amount described in subsection (f))"

26 USC 2039.

(b) Definitions.—Section 2039 is amended by adding at the end thereof the following new subsection:

"(f) Lump Sum Distributions.—

26 USC 402.

"(1) In general.—An amount is described in this subsection if it is a lump sum distribution described in section 402(e)(4) (determined without regard to the next to the last sentence of section 402(e)(4)(A)).

"(2) Exception where recipient elects not to take 10-year averaging.—A lump sum distribution described in paragraph (1) shall be treated as not described in this subsection if the recipient elects irrevocably (at such time and in such manner as the Secretary may by regulations prescribe) to treat the distribution as taxable under section 402(a) without the application of paragraph (2) thereof."

26 USC 2039 note.

(c) Effective Date.—The amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1978.

SEC. 143. QUALIFIED PLANS REQUIRED TO PASS THROUGH VOTING RIGHTS ON EMPLOYER SECURITIES.

26 USC 401.

(a) In General.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (21) the following new paragraph:

"(22) If a defined contributions plan—

"(A) is established by an employer whose stock is not publicly traded, and

"(B) after acquiring securities of the employer, more than 10 percent of the total assets of the plan as securities of the employer,

Ante, p. 2787.

any trust forming part of said plan shall not constitute a qualified trust under this section unless the plan meets the requirements of subsection (e) of section 409A."

26 USC 401 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to acquisitions of securities after December 31, 1979.

Subtitle E—Retirement Plans

SEC. 152. SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN MAXIMUM LIMITATION UNDER SECTION 408 TO $7,500.—Section 408 (relating to individual retirement account) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsection: 26 USC 408.

"(j) INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.—In the case of a simplified employee pension, this section shall be applied by substituting '$7,500' for '$1,500' in the following provisions:

"(1) paragraph (1) of subsection (a),
"(2) paragraph (2) of subsection (b), and
"(3) paragraph (5) of subsection (b)."

(b) SIMPLIFIED EMPLOYEE PENSION DEFINED.—Section 408 is amended by inserting after subsection (j) the following new subsection:

"(k) SIMPLIFIED EMPLOYEE PENSION DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met.

"(2) PARTICIPATION REQUIREMENTS.—This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 25, and

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 calendar years.

"(3) CONTRIBUTIONS MAY NOT DISCRIMINATE IN FAVOR OF THE HIGHLY COMPENSATED, ETC.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

"(i) an officer,
"(ii) a shareholder,
"(iii) a self-employed individual, or
"(iv) highly compensated.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2), and 26 USC 410.

"(ii) an individual shall be considered a shareholder if he owns (with the application of section 318) more than 10 percent of the value of the stock of the employer. 26 USC 318.

"(C) CONTRIBUTIONS MUST BEAR A UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $100,000) of each employee maintaining a simplified employee pension.

"(D) Treatment of certain contributions and taxes.—Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contribution Act), title II of the Social Security Act, or any other Federal or State law. Taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under chapter 2, and the taxes which would be payable under chapter 2 by such owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees.

26 USC 1401.
26 USC 3101.
42 USC 401.
26 USC 3111.
26 USC 1402.

"(4) Withdrawals must be permitted.—A simplified employee pension meets the requirements of this paragraph only if—

"(A) employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

"(B) there is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

"(5) Contributions must be made under written allocation formula.—The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

"(A) the requirements which an employee must satisfy to share in an allocation, and

"(B) the manner in which the amount allocated is computed.

"(6) Definitions.—For purposes of this subsection and subsection (l)—

"(A) Employee, employer, or owner-employee.—The terms 'employee', 'employer', and 'owner-employee' shall have the respective meanings given such terms by section 401(c).

26 USC 401.

"(B) Compensation.—The term 'compensation' means, in the case of an employee within the meaning of section 401(c)(1), earned income within the meaning of section 401(c)(2).

"(l) Simplified Employer Reports.—An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Secretary may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations."

26 USC 219.

(c) Maximum Deduction Under Section 219.—Subsection (b) of section 219 (relating to maximum deduction in the case of retirement savings) is amended by adding at the end thereof the following new paragraph:

"(7) SIMPLIFIED EMPLOYEE PENSIONS.—In the case of an employer contribution on behalf of the employee to a simplified employee pension, paragraph (2) shall not apply with respect to the employer contribution and the limitation under paragraph (1) shall be the lesser of—

"(A) 15 percent of compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(B) the sum of—

"(i) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(ii) $1,500, reduced (but not below zero) by the amount described in clause (i).

In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the amount referred to in subparagraph (B) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)." 26 USC 408.

(d) EMPLOYEES OF ENTERPRISES UNDER COMMON CONTROL.—Subsections (b) and (c) of section 414 are each amended by inserting "408(k)," after "401,". 26 USC 414.

(e) SIMPLIFIED EMPLOYEE PENSION MAY BE TAKEN INTO ACCOUNT IN DETERMINING WHETHER EMPLOYER MEETS CERTAIN OTHER NONDISCRIMINATION PROVISIONS.—Paragraph (5) of section 401(a) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of section 410(b), an employer may take into account all simplified employee pensions to which only the employer contributes." 26 USC 401. 26 USC 410.

(f) EMPLOYER DEDUCTIONS.—Section 404 (relating to deduction for contributions of an employer) is amended by adding the following new subsection at the end thereof: 26 USC 404.

"(h) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(1) IN GENERAL.—Employer contributions to a simplified employee pension shall be treated as if they are made to a plan subject to the requirements of this section. Employer contributions to a simplified employee pension are subject to the following limitations:

"(A) Contributions made for a calendar year are deductible for the taxable year with which or within which the calendar year ends.

"(B) Contributions made within 3½ months after the close of a calendar year are treated as if they were made on the last day of such calendar year if they are made on account of such calendar year.

"(C) The amount deductible in a taxable year for a simplified employee pension shall not exceed 15 percent of the compensation paid to the employees during the calendar year ending with or within the taxable year. The excess of the amount contributed over the amount deductible for a taxable year shall be deductible in the succeeding taxable years in order of time, subject to the 15 percent limit of the preceding sentence.

"(2) EFFECT ON STOCK BONUS AND PROFIT-SHARING TRUST.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable limitations in subsection (a)(3)(A) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(3) EFFECT ON LIMIT ON DEDUCTIONS.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable 25 percent limitations in subsection (a)(7) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(4) EFFECT ON SELF-EMPLOYED INDIVIDUALS.—The limitations described in paragraphs (1), (2)(A), and (4) of subsection (e) for any taxable year shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to an employee within the meaning of section 401(c)(1)." 26 USC 401.

26 USC 415.

(g) AMENDMENTS TO SECTION 415.—Section 415 (relating to limitations on benefits and contributions under certain plans) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(2) as subparagraphs (F) and (G) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a simplified employee pension,";

(2) by inserting "408(k)," after "408(b)," in the material immediately following subparagraph (G) of section 415(b)(2);

(3) by inserting "any simplified employee pension," after "section 408(b)," in section 415(e)(5); and

(4) by striking out "or" in section 415(k)(1)(F), by redesignating subparagraph (G) of section 415(k)(1) as subparagraph (H), and by inserting after section 415(k)(1)(F) the following new subparagraph:

"(G) a simplified employee pension, or".

26 USC 408 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 153. DEFINED BENEFIT PLAN LIMITS.

26 USC 415.

(a) IN GENERAL.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(7) BENEFITS UNDER CERTAIN COLLECTIVELY BARGAINED PLANS.—For a year, the limitation referred to in paragraph (1)(B) shall not apply to benefits with respect to a participant under a defined benefit plan—

"(A) which is maintained for such year pursuant to a collective bargaining agreement between employee representatives and one or more employers,

"(B) which, at all times during such year, has at least 100 participants,

"(C) benefits under which are determined by multiplying a specified amount (which is the same amount for each participant) by the number of the participant's years of service,

"(D) which provides that an employee who has at least 4 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions, and

"(E) which requires, as a condition of participation in the plan, that an employee complete a period of not more than

60 consecutive days of service with the employer or employers maintaining the plan.

This paragraph shall not apply to a participant whose compensation for any 3 years during the 10-year period immediately preceding the year in which he separates from service exceeded the average compensation for such 3 years of all participants in such plan. For any year for which the paragraph applies to benefits with respect to a participant, paragraph (1)(A) and subsection (d)(1)(A) shall be applied with respect to such participant by substituting '37,500' for '75,000'."

(b) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 1978. 26 USC 415 note.

SEC. 154. CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.

(a) Amendment of Section 403.—Subparagraph (A) of section 403(b)(7) (relating to custodial accounts for regulated investment company stock) is amended to read as follows: 26 USC 403.

"(A) Amounts paid treated as contributions.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfied the requirements of section 401(f)(2) shall be treated as amounts contributed by him for an annuity contract for his employee if— 26 USC 401.

"(i) the amounts are to be invested in regulated investment company stock to be held in that custodial account, and

"(ii) under the custodial account no such amounts may be paid or made available to any distributee before the employee dies, attains age 59½, separates from service, becomes disabled (within the meaning of section 72(m)(7)), or encounters financial hardship." 26 USC 72.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 403 note.

SEC. 155. PENSION PLAN RESERVES.

(a) In General.—Subsection (d) of section 805 (relating to pension plan reserves) is amended— 26 USC 805.

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or 26 USC 414.

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A)."

(b) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1978. 26 USC 805 note.

SEC. 156. ROLLOVER OF SECTION 403(b) ANNUITIES PERMITTED.

(a) General Rule.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph: 26 USC 403. 26 USC 501.

"(8) Rollover amounts.—

"(A) General rule.—If—

"(i) the balance to the credit of an employee is paid to him in a qualifying distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an individual retirement plan or to an annuity contract described in paragraph (1), and

"(iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) Qualifying distribution defined.—

"(i) In general.—For purposes of subparagraph (A), the term 'qualifying distribution' means 1 or more distributions from an annuity contract described in paragraph (1) which would constitute a lump sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a).

26 USC 402.

"(ii) Aggregation of annuity contracts.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.

"(C) Certain rules made applicable.—Rules similar to the rules of subparagraphs (B), (C), and (E)(i) of section 402(a)(5) and of paragraphs (6) and (7) of section 402(a) shall apply for purposes of subparagraph (A)."

26 USC 403.

(b) Treatment of Rollover Contributions.—Section 403(b)(1) (relating to annuities purchased by certain exempt organizations and public schools) is amended by adding at the end thereof the following new sentence: "For purposes of applying the rules of this subsection to amounts contributed by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph (8) of this subsection or section 408(d)(3)(A)(iii) or 409(d)(3)(C) shall not be considered contributed by such employer."

26 USC 408, 409.

(c) Technical and Conforming Amendments.—

26 USC 408.

(1) Subparagraph (A) of section 408(d)(3) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii)(I) the entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

"(II) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an annuity contract described in section 403(b) and any earnings on such rollover, and

26 USC 403.

"(III) the entire amount thereof is paid into another annuity contract described in section 403(b) (for the benefit of such individual) not later than the 60th day after he receives the payment or distribution."

(2) Subparagraph (C) of section 409(b)(3) is amended— 26 USC 409.

(A) by striking out "or an annuity plan described in section 403(a)" in the first sentence and inserting in lieu thereof "an annuity plan described in section 403(a), or an annuity contract described in section 403(b)", and 26 USC 403.

(B) by adding at the end thereof the following new sentence: "This subparagraph does not apply in the case of a transfer to an annuity contract described in section 403(b) unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an annuity contract."

(3) Sections 219(b)(4), 220(b)(5), 408(a)(1), 409(a)(4), and 4973(b)(1)(A) are each amended by inserting "403(b)(8)," after "403(a)(4)," each place it appears. 26 USC 219, 220, 408, 409, 4973.

(4) Section 2039(e) is amended by inserting after "403(a)(4)," the following: "section 403(b)(8) (but only to the extent such contribution is attributable to a distribution from a contract described in subsection (c)(3)),". 26 USC 2039.

(5) Section 4973(c)(1) is amended by inserting after "account" the following: "(other than a rollover contribution described in section 403(b)(8), 408(d)(3)(A)(iii), or 409(d)(3)(C))". 26 USC 4973.

(d) Effective Date.—The amendments made by this section shall apply to distributions or transfers made after December 31, 1978, in taxable years beginning after such date. 26 USC 403 note.

SEC. 157. INDIVIDUAL RETIREMENT ACCOUNT TECHNICAL CHANGES.

(a) Extension of Period for Making Individual Retirement Plan Contributions.—

(1) Amendment of section 219(c)(3).—Paragraph (3) of section 219(c) (relating to time when contributions deemed made in the case of retirement savings) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)". 26 USC 219.

(2) Amendment of section 220(c)(4).—Paragraph (4) of section 220(c) (relating to time when contributions deemed made in the case of retirement savings for certain married individuals) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)". 26 USC 220.

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1977. 26 USC 219 note.

(b) Excess Contributions May Be Deducted in Subsequent Year for Which There Is an Unused Limitation.—

(1) Amendment of section 219.—Subsection (c) of section 219 (relating to definitions and special rules for retirement savings) is amended by adding at the end thereof the following new paragraph: 26 USC 219.

"(5) Excess contributions treated as contribution made during subsequent year for which there is an unused limitation.—

"(A) In general.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

26 USC 4973.

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) Amount contributed.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) Special rule where excess deduction was allowed for closed year.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 220 for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

Infra.

26 USC 220.

(2) Amendment of section 220.—Subsection (c) of section 220 (relating to definitions and special rules for retirement savings for certain married individuals) is amended by adding at the end thereof the following new paragraph:

"(6) Excess contributions treated as contribution made during subsequent year for which there is an unused limitation.—

"(A) In general.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) Amount contributed.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) Special rule where excess deduction was allowed for closed year.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 219 for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

Ante, p. 2803.

26 USC 4973.

(3) Amendment of section 4973.—Paragraph (2) of section 4973(b) (defining excess contributions) is amended to read as follows:

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

26 USC 408.

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and 26 USC 408.

"(C) the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed (determined without regard to sections 219(c)(5) and 220(c)(6)) to the accounts or for the annuities or bonds for the taxable year." *Ante*, pp. 2803, 2804.

(4) EFFECTIVE DATE.— 26 USC 219 note.

(A) IN GENERAL.—The amendments made by this subsection shall apply to the determination of deductions for taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—If, but for this subparagraph, an amount would be allowable as a deduction by reason of section 219(c)(5) or 220(c)(6) of the Internal Revenue Code of 1954 for a taxable year beginning before January 1, 1978, such amount shall be allowable only for the taxpayer's first taxable year beginning in 1978.

(c) ADDITIONAL PERIOD TO RECTIFY CERTAIN EXCESS CONTRIBUTIONS.—

(1) GENERAL RULE.—Subsection (d) of section 408 (relating to tax treatment of distributions) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph: 26 USC 408.

"(5) CERTAIN DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AFTER DUE DATE FOR TAXABLE YEAR.—

"(A) IN GENERAL.—In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed $1,750, paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount allowable as a deduction under section 219 or 220 for the taxable year for which the contribution was paid—

"(i) if such distribution is received after the date described in paragraph (4),

"(ii) but only to the extent that no deduction has been allowed under section 219 or 220 with respect to such excess contribution.

"(B) EXCESS ROLLOVER CONTRIBUTIONS ATTRIBUTABLE TO ERRONEOUS INFORMATION.—If—

"(i) the taxpayer reasonably relies on information supplied pursuant to subtitle F for determining the amount of a rollover contribution, but

"(ii) such information was erroneous, subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information."

(2) EFFECTIVE DATE.— 26 USC 408 note.

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply to distributions in taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of contributions for taxable years beginning before January 1, 1978, paragraph (5) of section 408(d) of the Internal Revenue Code of 1954 shall be applied as if such paragraph did not contain any dollar limitation. *Supra*.

(d) REQUIREMENT THAT ANNUITY CONTRACTS WILL QUALIFY AS INDIVIDUAL RETIREMENT ANNUITY ONLY IF THE PREMIUMS ARE FLEXIBLE.—

26 USC 408. (1) IN GENERAL.—Paragraph (2) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(2) Under the contract—

"(A) the premiums are not fixed,

"(B) the annual premium will not exceed $1,500, and

"(C) any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits."

26 USC 408 note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts issued after the date of the enactment of this Act.

26 USC 408 note. (3) TAX RELIEF FOR FIXED PREMIUM CONTRACTS HERETOFORE ISSUED.—In the case of any annuity or endowment contract issued on or before the date of the enactment of this Act which would be an individual retirement annuity within the meaning of section 408(b) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) but for the fact that the premiums under the contract are fixed, at the election of the taxpayer an exchange before January 1, 1981, of that contract for an individual retirement annuity within the meaning of such section 408(b) (as amended by paragraph (1)) shall be treated as a nontaxable exchange which does not constitute a distribution.

(e) CLARIFICATION OF DOLLAR LIMIT IN THE CASE OF INDIVIDUAL RETIREMENT ANNUITIES AND RETIREMENT BONDS.—

(1) IN GENERAL.—

(A) AMENDMENT OF SECTION 408(b)(2).—Subparagraph (B) of section 408(b)(2) (as amended by paragraph (1) of subsection (d)) is amended by inserting "on behalf of any individual" after "annual premium".

26 USC 409. (B) AMENDMENT OF SECTION 409(a)(4).—Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by inserting "on behalf of any individual" after "May not contribute".

26 USC 408 note. (2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

26 USC 402. (f) ROLLOVER OF PROCEEDS FROM SALE OF PROPERTY PERMITTED.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUSTS AND ANNUITIES.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(D) SALES OF DISTRIBUTED PROPERTY.—For purposes of subparagraphs (5) and (7)—

"(i) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(ii) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(iii) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer many designate—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this clause for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(iv) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under clause (iii) within the time provided therein, then—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution

shall be determined on a ratable basis.

"(v) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in clause (i), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (5)(B) or (7)(B) (as the case by be), neither gain nor loss on such sale shall be recognized."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to qualifying rollover distributions (as defined in section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) completed after December 31, 1978, in taxable years ending after such date.

26 USC 402 note.
Ante, p. 2806.

(g) DISTRIBUTION FROM EMPLOYEES' QUALIFIED PLAN OR ANNUITY TO SPOUSE MAY BE ROLLOVER CONTRIBUTION TO AN INDIVIDUAL RETIREMENT PLAN.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUST.—Subsection (a) of section 402 (relating to taxability of beneficiary of exempt trust) is amended by adding at the end thereof the following new paragraph:

26 USC 402.

"(7) ROLLOVER WHERE SPOUSE RECEIVES LUMP-SUM DISTRIBUTION AT DEATH OF EMPLOYEE.—

"(A) GENERAL RULE.—If—

"(i) any portion of a lump-sum distribution from a qualified trust is paid to the spouse of the employee on account of the employee's death,

"(ii) the spouse transfers any portion of the property which the spouse receives in such distribution to an individual retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of paragraph (5) and of paragraph (6) shall apply for purposes of this paragraph."

26 USC 403.

(2) ROLLOVER FROM QUALIFIED ANNUITY PLANS.—Subparagraph (B) of section 403(a)(4), as amended by section 21(b), is amended by striking out "paragraph (6)" and inserting lieu thereof "paragraphs (6) and (7)".

26 USC 408.

(3) NO ROLLOVER TO QUALIFIED PLAN OR ANNUITY FROM IRA TO WHICH SPOUSE MADE ROLLOVER CONTRIBUTION.—Subparagraph (B) of section 408(d)(3) is amended by adding at the end thereof the following: "Clause (ii) of subparagraph (A) shall not apply to any amount paid or distributed out of an individual retirement account or an individual retirement annuity to which an amount was contributed which was treated as a rollover contribution by section 402(a)(7) (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B))."

Ante, p. 2807.
26 USC 403.

26 USC 402 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to lump-sum distributions completed after December 31, 1978, in taxable years ending after such date.

Ante, p. 2806.

(h) REMOVAL OF CERTAIN REQUIREMENTS.—

(1) DISREGARD OF 5-YEAR MINIMUM PARTICIPATION RULE FOR PURPOSES OF ROLLOVERS.—Subclause (II) of section 402(a)(5)(D)(i) is amended by striking out "subsection (e)(4)(B)" and inserting in lieu thereof "subparagraphs (B) and (H) of subsection (e)(4)".

26 USC 408.

(2) REDUCTION OF REQUIRED PERIOD BETWEEN ROLLOVER CONTRIBUTIONS FROM 3 YEARS TO 1 YEAR.—The first sentence of subparagraph (B) of section 408(d)(3) is amended by striking out "3-year period" and inserting in lieu thereof "1-year period".

26 USC 402 note.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1977.

26 USC 402, 403.

(B) TRANSITIONAL RULE.—In the case of any payment which is described in section 402(a)(5)(A) or 403(a)(4)(A) of the Internal Revenue Code of 1954 by reason of the amendments made by this section, the applicable period specified in section 402(a)(5)(C) of such Code (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B) of such Code) shall not expire before the close of December 31, 1978.

(i) WAIVER OF EXCISE TAX ON CERTAIN ACCUMULATIONS IN INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—

26 USC 4974.

(1) GENERAL RULE.—Section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by adding at the end thereof the following new subsection:

"(c) WAIVER OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall, the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1975. 26 USC 4974 note.

(j) Removal of Certain Limitations on Provision Allowing Correction of Excess Contributions.—

(1) General rule.—The last sentence of section 4973(b) (defining excess contributions) is amended to read as follows: "For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed." 26 USC 4973. 26 USC 408.

(2) Effective date.—The amendment made by paragraph (1) shall apply to contributions made for taxable years beginning after December 31, 1977. 26 USC 4973 note.

(k) Simplification of Return Requirements With Respect to Individual Retirement Plans.—

(1) In general.—Section 6058 (relating to information required in connection with certain plans of deferred compensation) is amended by redesignating subsection (d) as subsection (f) and by striking out subsection (c) and inserting in lieu thereof the following new subsections. 26 USC 6058.

"(c) Employer.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan. 26 USC 401.

"(d) Coordination With Income Tax Returns, Etc.—An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

"(1) no special IRP tax, and

"(2) no plan activity other than—

"(A) the making of contributions (other than rollover contributions), and

"(B) the making of distributions.

"(e) Special IRP Tax Defined.—For purposes of this section, the term 'special IRP tax' means a tax imposed by—

"(1) section 408(f), 26 USC 408.

"(2) section 409(c), 26 USC 4090.

"(3) section 4973, or 26 USC 4973.

"(4) section 4974.". 26 USC 4974.

(2) Individual retirement plan defined.—Subsection (a) of section 7701 (relating to definitions of general application throughout the Code) is amended by adding at the end thereof the following new paragraph: 26 USC 7701.

"(37) Individual retirement plan.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a), 26 USC 408.

"(B) an individual retirement annuity described in section 408(b), and

"(C) a retirement bond described in section 409." 26 USC 409.

(3) Effective date.—The amendments made by paragraph (1) shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) shall apply to taxable years beginning after December 31, 1974. 26 USC 6058 note.

Subtitle F—Other Individual Items

SEC. 161. CERTAIN GOVERNMENT SCHOLARSHIP AND AWARD PROGRAMS.

(a) GOVERNMENT HEALTH PROFESSION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes" (Public Law 93-483; 88 Stat. 1457) approved October 26, 1974, is amended—

26 USC 117 note.

(1) by striking out "1979" and inserting in lieu thereof "1980", and

(2) by striking out "1983" and inserting in lieu thereof "1984".

26 USC 117 note.

(b) NATIONAL RESEARCH SERVICE AWARDS.—

(1) GENERAL RULE.—Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under section 472 of the Public Health Service Act shall be treated as a scholarship or fellowship grant under section 117 of the Internal Revenue Code of 1954.

42 USC 289*l*-1.

26 USC 117.

(2) EFFECTIVE DATE.—The provisions of subsection (b) shall apply to awards made during calendar years 1974 through 1979.

SEC. 162. CANCELLATION OF STUDENT LOANS.

26 USC 61 note.

Subsection (c) of section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended by striking out "Janu- ary 1, 1979" and inserting in lieu thereof "January 1, 1983".

SEC. 163. TAX COUNSELING FOR THE ELDERLY.

26 USC 7803 note.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

(1) AGREEMENTS.—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

(2) OTHER ASSISTANCE.—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

(C) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—In carrying out his responsibilities under this section, the Secretary is authorized—

(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

Rules and regulations.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) IN GENERAL.—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*, 3101 *et seq.*

(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1954.

26 USC 37, 121.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) The term "elderly individual" means an individual who has attained the age of 60 years as of the close of his taxable year.

(3) The term "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code.

26 USC 6001 *et seq.*
26 USC 1 *et seq.*

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section $2,500,000 for the fiscal year ending September 30, 1979, and $3,500,000 for the fiscal year ending September 30, 1980.

SEC. 164. EXCLUSION OF VALUE OF CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 127 as 128 and by inserting after section 126 the following new section:

26 USC 128.

"SEC. 127. EDUCATIONAL ASSISTANCE PROGRAMS.

26 USC 127.

"(a) GENERAL RULE.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

"(b) Educational Assistance Program.—

"(1) In general.—For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subsection.

"(2) Eligibility.—The program shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are officers, owners, or highly compensated, or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) Principal shareholders or owners.—Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) Other benefits as an alternative.—A program must not provide eligible employees with a choice between educational assistance and other remuneration includible in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

"(5) No funding required.—A program referred to in paragraph (1) is not required to be funded.

"(6) Notification of employees.—Reasonable notification of the availability and terms of the program must be provided to eligible employees.

"(c) Definitions; Special Rules.—For purposes of this section—

"(1) Educational assistance.—The term 'educational assistance' means—

"(A) the payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

"(B) the provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment),

but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

"(2) Employee.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1)(relating to self-employed individuals).

"(3) Employer.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

"(4) ATTRIBUTION RULES.—

"(A) OWNERSHIP OF STOCK.—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)). 26 USC 1563.

"(B) INTEREST IN UNINCORPORATED TRADE OR BUSINESS.—The interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(5) CERTAIN TESTS NOT APPLICABLE.—An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

"(A) of utilization rates for the different types of educational assistance made available under the program; or

"(B) successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

"(6) RELATIONSHIP TO CURRENT LAW.—This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under section 117, 162 or 212. 26 USC 117, 162, 212.

"(7) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount excluded from income by reason of this section.

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1983."

(b) TREATMENT OF EMPLOYER EDUCATIONAL ASSISTANCE BENEFITS FOR PURPOSES OF WITHHOLDING, UNEMPLOYMENT TAXES, AND SOCIAL SECURITY TAXES.—

(1) Section 3401(a) (relating to the definition of wages for purposes of collection of income tax at the source) is amended— 26 USC 3401.

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of paragraph (17); and

(C) by adding at the end thereof the following new paragraph:

"(18) for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 124.". 26 USC 124.

(2) Section 3306(b) (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended— 26 USC 3306.

(A) by striking out "or" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(13) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.". *Ante*, p. 2811.

26 USC 3121. (3) Section 3121(a) (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended—

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of subparagraph (17) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(18) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.".

42 USC 409. (4) Section 209 of the Social Security Act is amended—

(A) by striking out "or" at the end of subsection (o);

(B) by striking out the period at the end of subsection (p) and inserting in lieu thereof "; or"; and

(C) by inserting after subsection (p) and before the sentence beginning with "For purposes of this title, in the case of domestic service" the following new subsection:

"(q) Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the Internal Revenue Code of 1954."

(c) Clerical Amendment.—The table of sections for such part is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Educational assistance programs.
"Sec. 125. Cross references to other Acts.".

26 USC 127 note. (d) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related To At Risk Rules

SEC. 201. EXTENSION OF SECTION 465 AT RISK RULES TO ALL ACTIVITIES OTHER THAN REAL ESTATE.

26 USC 465. (a) Extension.—Subsection (c) of section 465 (relating to activities to which section applies) is amended by adding at the end thereof the following new paragraph:

"(3) Extension to other activities.—

"(A) In general.—In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

"(i) engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

"(ii) which is not described in paragraph (1).

"(B) Aggregation of activities where taxpayer actively participates in management of trade or busi-

NESS.—Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as one activity if—

"(i) the taxpayer actively participates in the management of such trade or business, or

"(ii) such trade or business is carried on by a partnership or electing small business corporation (as defined in section 1371(b)) and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business. 26 USC 1371.

"(C) AGGREGATION OR SEPARATION OF ACTIVITIES UNDER REGULATIONS.—The Secretary shall prescribe regulations under which activities described in subparagraph (A) shall be aggregated or treated as separate activities. Regulations.

"(D) EXCLUSIONS.—

"(i) REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.

"(ii) EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

"(I) In the case of a corporation described in subsection (a)(1)(C) actively engaged in leasing equipment which is section 1245 property, the activity of leasing such equipment shall be treated, for purposes of subsection (a), as a separate activity and subsection (a) shall not apply to losses from such activity. 26 USC 1245.

"(II) A corporation described in subsection (a)(1)(C) shall not be considered to be actively engaged in leasing such equipment unless 50 percent or more of the gross receipts of the corporation for the taxable year are attributable, under regulations prescribed by the Secretary, to leasing and selling such equipment.

"(III) For purposes of this paragraph, the leasing of master sound recordings, and other similar contractual arrangements with respect to tangible or intangible assets associated with literary, artistic, or musical properties shall not be treated as leasing equipment which is section 1245 property.

"(IV) In the case of a controlled group of corporations (within the meaning of section 1563(a)), this paragraph shall be applied by treating the controlled group as a single corporation. 26 USC 1563.

"(E) APPLICATION OF SUBSECTION (b)(3).—In the case of an activity described in subparagraph (A), subsection (b)(3) shall apply only to the extent provided in regulations prescribed by the Secretary."

(b) REPEAL OF SECTION 704(d) AT RISK RULES.—

26 USC 704.

(1) In general.—Subsection (d) of section 704 is amended by striking out the last 2 sentences.

26 USC 704 note.

(2) Transitional rule.—In the case of a loss which was not allowed for any taxable year by reason of the last 2 sentences of section 704(d) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act), such loss shall be treated as a deduction (subject to section 465(a) of such Code) for the first taxable year beginning after December 31, 1978. Section 465(a) of such Code (as amended by this section) shall not apply with respect to partnership liabilities to which the last 2 sentences of section 704(d) of such Code (as in effect on the day before the date of enactment of this Act) did not apply because of the provisions of section 213(f)(2) of the Tax Reform Act of 1976.

Infra.

26 USC 709 note.

(c) Clerical Amendments.—

(1) The heading of section 465 is amended to read as follows:

26 USC 465.

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK."

(2) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of certain activities" in the item relating to section 465.

26 USC 461 *et seq.*

SEC. 202. EXTENSION OF AT RISK PROVISIONS TO CLOSELY HELD CORPORATIONS.

26 USC 465.

Subsection (a) of section 465 (relating to deductions limited to amount at risk) is amended to read as follows:

"(a) Limitation to Amount at Risk.—

"(1) In general.—In the case of—

"(A) an individual,

"(B) an electing small business corporation (as defined in section 1371(b)), and

26 USC 1371.

"(C) a corporation with respect to which the stock ownership requirement of paragraph (2) of section 542(a) (determined by reference to the rules contained in section 318 rather than under section 544) is met,

26 USC 542.

26 USC 544.

engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year.

"(2) Deduction in succeeding year.—Any loss from an activity to which this section applies not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year."

SEC. 203. RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.

26 USC 465.

Section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new subsection:

"(e) Recapture of Losses Where Amount at Risk Is Less Than Zero.—

"(1) In general.— If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

"(A) the taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

"(B) an amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year.

"(2) Limitation.—The excess referred to in paragraph (1) shall not exceed—

"(A) the aggregate amount of the reductions required by subsection (b)(5) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

"(B) the amounts previously included in gross income with respect to such activity under this subsection."

SEC. 204. EFFECTIVE DATES.

26 USC 465 note.

(a) In General.—The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1978.

(b) Transitional Rules.—

(1) Recapture provisions.—If the amount for which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, section 465(e)(1) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) shall be applied with respect to such activity of the taxpayer by substituting such negative amount for zero.

Ante, p. 2816.

(2) Special transitional rules for leasing activities.—

(A) Rule for leases.—In the case of any activity described in section 465(c)(1)(C) of such Code in which a corporation described in section 465(a)(1)(C) of such Code is engaged, the amendments made by this section shall not apply with respect to—

(i) leases entered into before November 1, 1978, and

(ii) leases where the property was ordered by the lessor or lessee before November 1, 1978.

(B) Holding of interests for purposes of subparagraph (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on October 31, 1978.

Subtitle B—Partnership Provisions

SEC. 211. PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURN.

(a) General Rule.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6698. FAILURE TO FILE PARTNERSHIP RETURN.

26 USC 6698.

"(a) General Rule.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

26 USC 7203.

26 USC 6031.

"(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

"(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

"(b) Amount Per Month.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

"(1) $50, multiplied by

"(2) the number of persons who were partners in the partnership during any part of the taxable year

"(c) Assessment of Penalty.—The penalty imposed by subsection (a) shall be assessed against the partnership.

"(d) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6698. Failure to file partnership return."

26 USC 6698 note.

(c) Effective Date.—The amendments made by this section shall apply with respect to returns for taxable years beginning after December 31, 1978.

SEC. 212. EXTENSION OF STATUTE OF LIMITATIONS IN THE CASE OF PARTNERSHIP ITEMS.

26 USC 6501.

(a) Assessment of Deficiencies.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) Special Rules for Partnership Items of Federally Registered Partnerships.—

"(1) In general.—In the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or, later, if the date prescribed for filing the return), or

"(B) if the name or address of such person does not appear on the partnership return, the date which is 1 year after the date on which such information is furnished to the Secretary in such manner and at such place as he may prescribe by regulations.

"(2) Partnership item defined.—For purposes of this subsection, the term 'partnership item' means—

"(A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provide that for purposes of this subtitle such item is more appropriately determined at the partnership level than at the partner level, and

"(B) any other item to the extent affected by an item described in subparagraph (A).

"(3) Extension by agreement.—The extensions referred to in subsection (c)(4), insofar as they relate to partnership items, may, with respect to any person, be consented to—

"(A) except to the extent the Secretary is otherwise notified by the partnership, by a general partner of the partnership, or

"(B) by any person authorized to do so by the partnership in writing.

"(4) FEDERALLY REGISTERED PARTNERSHIP.—For purposes of this subsection, the term 'federally registered partnership' means, with respect to any partnership taxable year, any partnership—

"(A) interests in which have been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

"(B) which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership."

(b) CREDITS AND REFUNDS.—

(1) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

26 USC 6511.

"(g) SPECIAL RULE FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

"(B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item is made before the date specified in subparagraph (A), the date 6 months after the expiration of such extension.

In any case to which the preceding sentence applies, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'partnership item' and 'federally registered partnership' have the same meanings as such terms have when used in section 6501(q)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by striking out "(c), or (d)" each place it appears and inserting in lieu thereof "(c), (d), or (g)".

26 USC 6512.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.

26 USC 6501 note.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

26 USC 11. (a) In General.—Section 11 (relating to the tax imposed on corporations) is amended to read as follows:

"SEC. 11. TAX IMPOSED.

"(a) Corporations in General.—A tax is hereby imposed for each taxable year on the taxable income of every corporation.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 17 percent of so much of the taxable income as does not exceed $25,000;

"(2) 20 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000;

"(3) 30 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000;

"(4) 40 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000; plus

"(5) 46 percent of so much of the taxable income as exceeds $100,000.

"(c) Exceptions.—Subsection (a) shall not apply to a corporation subject to a tax imposed by—

26 USC 594. "(1) section 594 (relating to mutual savings banks conducting life insurance business),

26 USC 801. "(2) subchapter L (sec. 801 and following, relating to insurance companies), or

26 USC 851. "(3) subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investment trusts).

"(d) Foreign Corporations.—In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by section 882." 26 USC 882.

(b) Conforming Amendments.—

26 USC 12. (1) Cross references relating to corporations.—Paragraph (7) of section 12 (relating to cross references relating to tax on corporations) is amended to read as follows:

"(7) For limitation on benefits of graduated rate schedule provided in section 11(b), see section 1551."

26 USC 57. (2) Minimum tax.—Subparagraph (B) of section 57(a)(9) (relating to capital gains preference for corporations) is amended by striking out "the sum of the normal tax rate and the surtax rate under section 11" each place it appears and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

26 USC 244. (3) Dividends received on certain preferred stock.—Subparagraph (B) of section 244(a)(2) (relating to dividends received on certain preferred stock) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

26 USC 247. (4) Dividends paid on certain preferred stock of public utilities.—Subparagraph (B) of section 247(a)(2) (relating to dividends paid on certain preferred stock of public utilities) is

amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(5) TAX ON UNRELATED BUSINESS INCOME OF CHARITABLE, ETC., ORGANIZATIONS.—

(A) IMPOSITION OF TAX.—Paragraph (1) of section 511(a) (relating to charitable, etc., organizations taxable at corporation rates) is amended by striking out "a normal tax and a surtax" and inserting in lieu thereof "a tax". 26 USC 511.

(B) ORGANIZATIONS SUBJECT TO TAX.—Paragraph (2) of section 511(a) is amended by striking out "taxes" each place it appears and inserting in lieu thereof "tax".

(6) POLITICAL ORGANIZATIONS.—Paragraph (1) of section 527(b) (relating to tax imposed) is amended to read as follows: 26 USC 527.

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b)." *Ante*, p. 2820.

(7) HOMEOWNERS ASSOCIATIONS.—Paragraph (1) of section 528(b) (relating to tax imposed) is amended to read as follows: 26 USC 528.

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)."

(8) LIFE INSURANCE COMPANIES.—Paragraph (1) of section 802(a) (relating to tax imposed) is amended by striking out "a normal tax and surtax" and inserting in lieu thereof "a tax". 26 USC 802.

(9) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows: 26 USC 821.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b). 26 USC 831.

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.—The tax imposed by paragraph (1) shall not exceed 34 percent of the amount by which the mutual insurance company taxable income exceeds $6,000."

(B) SMALL COMPANIES.—Paragraph (1) of section 821(c) (relating to alternative tax for certain small companies) is amended to read as follows: 26 USC 821.

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed for each taxable year on the income of every mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)). Such tax shall be computed by multiplying the taxable investment income by the rates provided in section 11(b).

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) shall not exceed 34 percent of the amount by which the taxable investment income exceeds $3,000."

26 USC 826.

(10) ELECTION BY MUTUAL INSURANCE COMPANY WHICH IS A RECIPROCAL.—Paragraph (1) of section 826(c) (relating to exception) is amended to read as follows:

Ante, p. 2820.

"(1) is subject to the tax imposed by section 11;".

26 USC 852.

(11) REGULATED INVESTMENT COMPANIES.—Paragraph (1) of section 852(b) (relating to method of taxation of companies and shareholders) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REGULATED INVESTMENT COMPANIES.—There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a tax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11."

26 USC 857.

(12) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 857(b) (relating to imposition of normal tax and surtax on real estate investment trusts) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a tax computed as provided in section 11, as though the real estate investment trust taxable income were the taxable income referred to in section 11."

26 USC 882.

(13) TAX ON INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.—The heading of subsection (a) of section 882 (relating to tax on income of foreign corporations connected with United States business) and the heading of paragraph (1) of such subsection are amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—".

26 USC 907.
26 USC 901.

(14) FOREIGN TAX CREDIT.—Paragraph (2) of section 907(a) (relating to reduction in amount allowed as foreign tax under section 901) is amended to read as follows:

"(2) the percentage which is equal to the highest rate of tax specified in section 11(b)."

26 USC 922.

(15) SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATION.—Subparagraph (B) of section 922(a)(2) (relating to general rule) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)."

26 USC 962.

(16) ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.—Subsection (c) of section 962 (relating to surtax exemption with respect to individuals subject to tax at corporate rates) is amended to read as follows:

26 USC 951.

"(c) PRO RATION OF EACH SECTION 11 BRACKET AMOUNT.—For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such bracket amount as the amount included in the gross income of the United States shareholder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such shareholder includes any amount in gross income under section 951(a)." 26 USC 951.

(17) TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—Paragraph (4) of section 1351(d) (relating to adjustment for prior tax benefits) is amended to read as follows: 26 USC 1351.

"(4) SUBSTITUTION OF CURRENT TAX RATE.—For purposes of this subsection, the rates of tax specified in section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years." *Ante*, p. 2820.

(18) AMENDMENTS OF SECTION 1551.— 26 USC 1551.

(A) Subsection (a) of section 1551 (relating to disallowance of surtax exemption and accumulated earnings credit) is amended—

(i) by striking out "disallow the surtax exemption (as defined in section 11(d))" and inserting in lieu thereof "disallow the benefits of the rates contained in section 11(b) which are lower than the highest rate specified in such section", and

(ii) by striking out "such exemption or" and inserting in lieu thereof "such benefits or".

(B) The section heading of section 1551 is amended to read as follows:

"SEC. 1551. DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT." 26 USC 1551.

(C) The table of sections for part I of subchapter B of chapter 6 is amended by striking out the item relating to section 1551 and inserting in lieu thereof the following new item:

"Sec. 1551. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit."

(19) LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended— 26 USC 1561.

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,",

(ii) by striking out "amount" each place it appears in the second sentence and inserting in lieu thereof "amounts", and

(iii) by striking out the last sentence.

(B) CERTAIN SHORT TAXABLE YEARS.—Paragraph (1) of section 1561(b) (relating to certain short taxable years) is amended to read as follows:

"(1) the amount in each taxable income bracket in the tax table in section 11(b),".

(20) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(A) Subsection (c) of section 6154 (defining estimated tax) is amended to read as follows: 26 USC 6154.

"(c) ESTIMATED TAX DEFINED.—For purposes of this title, in the case of a corporation the term 'estimated tax' means the excess of—

26 USC 11, 1201.
26 USC 801.
26 USC 31.

"(1) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the amount which the corporation estimates as the sum of the credits against tax provided by part IV of subchapter A of chapter 1."

26 USC 6655.

(B) Subsection (e) of section 6655 (defining tax) is amended to read as follows:

"(e) Definition of Tax.—For purposes of subsections (b) and (d), the term 'tax' means the excess of—

26 USC 11, 1201.
26 USC 801 *et seq.*
26 USC 31 *et seq.*

"(1) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the credits against tax provided by part IV of subchapter A of chapter 1."

26 USC 11 note.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Subtitle B—Credits

SEC. 311. 10-PERCENT INVESTMENT TAX CREDIT AND $100,000 LIMITATION ON USED PROPERTY MADE PERMANENT.

26 USC 46.

(a) 10-Percent Investment Credit.—Subparagraph (B) of section 46(a)(2) (defining regular percentage) is amended to read as follows:

"(B) Regular percentage.—For purposes of this paragraph, the regular percentage is 10 percent."

26 USC 48 note.

(b) $100,000 Limitation on Used Property.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 (relating to effective date for increase of dollar limitation on used property) is amended by striking out ", and before January 1, 1981".

(c) Technical Amendments.—

26 USC 46.

(1) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended by striking out "For the period beginning on January 1, 1981" and inserting in lieu thereof "To the extent that the credit allowed by section 38 with respect to any public utility property is determined at the rate of 7 percent".

26 USC 46.
92 Stat. 3174.
26 USC 1 note.
Ante, p. 2763.

(2) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Energy Tax Act of 1978" and inserting in lieu thereof "the Energy Tax Act of 1978, and the Revenue Act of 1978".

SEC. 312. INCREASE IN LIMITATION ON INVESTMENT CREDIT TO 90 PERCENT OF TAX LIABILITY

26 USC 46.

(a) Increase in General Limitation.—Paragraph (3) of section 46(a) (relating to amount of credit) is amended to read as follows:

"(3) Limitation based on amount of tax.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(B) the following percentage of so much of the liability for tax for the taxable year as exceeds $25,000:

"If the taxable year ends in:	The percentage is:
1979	60
1980	70
1981	80
1982 or thereafter	90."

(b) Special Rules for Certain Utilities, Railroads, and Airlines.—

(1) Utilities.—Paragraph (7) of section 46(a) (relating to alternative limitation in the case of certain utilities) is amended to read as follows: 26 USC 46.

"(7) Alternative limitation in the case of certain utilities.—

"(A) In general.—If, for the taxable year ending in 1979—

"(i) the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent,

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' the taxpayer's applicable percentage for such year.

"(B) Applicable percentage.—The applicable percentage for any taxpayer for any taxable year ending in 1979 is—

"(i) 50 percent, plus

"(ii) that portion of 20 percent which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 70 percent.

"(C) Public utility property defined.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(2) Alternative limitation in the case of certain railroads and airlines.—Subsection (a) of section 46 is amended by striking out paragraphs (8) and (9) and by inserting in lieu thereof the following new paragraph:

"(8) Alternative limitation in the case of certain railroads and airlines.—

"(A) In general.—If, for a taxable year ending in 1979 or 1980—

"(i) the amount of the qualified investment of the taxpayer which is attributable to railroad property or to airline property, as the case may be, is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent (70 percent in the case of a taxable year ending in 1980),

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' ('70 percent' in the case of a taxable year ending in 1980) the taxpayer's applicable percentage for such year.

"(B) Applicable percentage.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property or airline property (as the case may be) bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the taxable year shall be 90 percent (80 percent in the case of a taxable year ending in 1980).

"(C) Tentative percentage.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1979	40
1980	30

"(D) Railroad property defined.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).

"(E) Airline property defined.—For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration."

(c) Repeal of Certain Obsolete Provisions.—

26 USC 48, 49, 50.

(1) Subsections (h), (i), and (j) of section 48 and sections 49 and 50 are hereby repealed.

26 USC 46.
26 USC 48.
26 USC 50.

(2) Paragraphs (1) and [illegible]) of section 46(f) and subparagraph (B) of section 48(a)(7) are each amended by striking out "described in section 50".

26 USC 48.

(3) Subparagraph (A) of section 48(a)(7) is amended by striking out "(other than pre-termination property)".

26 USC 167.

(4) Subsection (i) of section 167 is hereby repealed.

26 USC 46.
26 USC 49, 50.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the items relating to sections 49 and 50.

26 USC 46 note.

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1978.

SEC. 313. INVESTMENT CREDIT FOR POLLUTION CONTROL FACILITIES.

26 USC 46.

(a) In General.—Paragraph (5) of section 46(c) (relating to applicable percentage in the case of certain pollution control facilities) is amended to read as follows:

"(5) Applicable percentage in the case of certain pollution control facilities.—

(A) In general.—Notwithstanding paragraph (2), in the case of property—

"(i) with respect to which an election under section 169 applies, and

26 USC 169.

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years.

100 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

"(B) SPECIAL RULE WHERE PROPERTY IS FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—To the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, subparagraph (A) shall be applied by substituting '50 percent' for '100 percent'." 26 USC 103.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to— 26 USC 46 note.

(1) property acquired by the taxpayer after December 31, 1978, and

(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date).

SEC. 314. INVESTMENT CREDIT FOR CERTAIN SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) GENERAL RULE.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or" and by inserting after subparagraph (C) the following new subparagraph: 26 USC 48. 26 USC 38.

"(D) single purpose agricultural or horticultural structures."

(b) DEFINITION OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.—Section 48 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection: 26 USC 48.

"(p) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'single purpose agricultural or horticultural structure' means—

"(A) a single purpose livestock structure, and

"(B) a single purpose horticultural structure.

"(2) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term 'single purpose livestock structure' means any enclosure or structure specifically designed, constructed, and used—

"(A) for housing, raising, and feeding a particular type of livestock and their produce, and

"(B) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subparagraph (A).

"(3) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term 'single purpose horticultural structure' means—

"(A) a greenhouse specifically designed, constructed, and used for the commerical production of plants, and

"(B) a structure specifically designed, constructed and used for the commercial production of mushrooms.

"(4) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

"(A) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

"(B) the maintenance of the enclosure or structure, and

"(C) the maintenance or replacement of the equipment or stock enclosed or housed therein.

26 USC 47.

"(5) SPECIAL RULE FOR APPLYING SECTION 47.—For purposes of section 47, any single purpose agricultural or horticultural structure shall be treated as meeting the requirements of this subsection for any period during which such structure is held for the use under which it qualified under this subsection.

"(6) LIVESTOCK.—The term 'livestock' includes poultry."

26 USC 48 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after August 15, 1971.

SEC. 315. INVESTMENT CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS.

26 USC 48.
26 USC 38.

(a) IN GENERAL.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (D) and by inserting in lieu thereof "; or" and the following new subparagraph:

"(E) in the case of a qualified rehabilitated building, that portion of the basis which is attributable to qualified rehabilitation expenditures (within the meaning of subsection (g))."

(b) QUALIFIED REHABILITATED BUILDINGS DEFINED.—Section 48 is amended by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components)—

"(i) which has been rehabilitated,

"(ii) which was placed in service before the beginning of the rehabilitation, and

"(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

"(B) 20 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION OR PRIOR REHABILITATION.—A building shall not be a qualified rehabilitated building unless there is a period of at least 20 years between—

"(i) the date the physical work on this rehabilitation of the building began, and

"(ii) the later of—

"(I) the date such building was first placed in service, or

"(II) the date such building was placed in service in connection with a prior rehabilitation with respect to which a credit was allowed by reason of subsection (a)(1)(E).

"(C) MAJOR PORTION TREATED AS SEPARATE BUILDING IN CERTAIN CASES.—Where there is a separate rehabilitation of a major portion of a building, such major portion shall be treated as a separate building.

"(D) REHABILITATION INCLUDES RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account which is incurred after October 31, 1978—

"(i) for property (or additions or improvements to property) with a useful life of 5 years or more, and

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"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) PROPERTY OTHERWISE SECTION 38 PROPERTY.—Any expenditure for property which constitutes section 38 property (determined without regard to subsection (a)(1)(E). 26 USC 38.

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or any interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of the existing building.

"(iv) CERTIFIED HISTORIC STRUCTURES.—Any expenditure attributable to the rehabilitation of a certified historic structure (within the meaning of section 191(d)(1)), unless the rehabilitation is a certified rehabilitation (within the meaning of section 191(d)(4)). 26 USC 191.

"(3) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) TECHNICAL AMENDMENT.—Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191". 26 USC 48.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 31, 1978; except that the amendment made by subsection (c) shall only apply with respect to property placed in service after such date. 26 USC 48 note.

SEC. 316. TAX TREATMENT OF THE INVESTMENT CREDIT IN THE CASE OF COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection: 26 USC 46.

"(h) SPECIAL RULES FOR COOPERATIVES.—In the case of a cooperative organization described in section 1381(a)— 26 USC 1381.

"(1) that portion of the credit allowable to the organization under section 38 which the organization cannot use for the taxable year to which the qualified investment is attributable because of the limitation contained in subsection (a)(3) shall be allocated to the patrons of the organization,

"(2) section 47 (relating to certain dispositions, etc., of section 38 property) shall be applied as if any allocated portion of the credit had been retained by the organization, and 26 USC 47.

"(3) the rules necessary to carry out the purposes of this subsection shall be determined under regulations prescribed by the Secretary."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 46(e) (relating to limitations in case of certain persons) is amended— 26 USC 46.

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "and" at the end of subparagraph (B), and

(C) by striking out subparagraph (C).

(2) Paragraph (2) of section 46(e) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

26 USC 1388. (3) Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end thereof the following new subsection.

"(j) Cross Reference.—

"For provisions relating to the apportionment of the investment credit between cooperative organizations and their patrons, see section 46(h)."

26 USC 46 note. (c) Effective Date.—The amendments made by this section shall apply to taxable years ending after October 31, 1978.

SEC. 317. TRANSFERS TO CONRAIL NOT TREATED AS DISPOSITIONS FOR PURPOSES OF THE INVESTMENT CREDIT.

26 USC 47. 26 USC 38. (a) In General.—Subsection (b) of section 47 (relating to certain disposition, etc., of section 38 property) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by inserting after paragraph (2) the following new paragraph:

26 USC 374. "(3) a transfer to which subsection (c) of section 374 (relating to exchanges under the final system plan for ConRail) applies."

26 USC 47 note. (b) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after March 31, 1976.

Subtitle C—Targeted Jobs Credit; WIN Credit

SEC. 321. TARGETED JOBS CREDIT.

(a) In General.—Section 51 (relating to amount of credit) is amended to read as follows:

26 USC 51. "SEC. 51. AMOUNT OF CREDIT.

Post, p. 2834. "(a) Determination of Amount.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.

"(b) Qualified Wages Defined.—For purposes of this subpart—

"(1) In general.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

"(2) Qualified first-year wages.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

"(3) Qualified second-year wages.—The term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) Only first $6,000 of wages per year taken into account.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(c) Wages Defined.—For purposes of this subpart—

"(1) In general.—Except as otherwise provided in this subsection and subsection (h)(2), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). 26 USC 3306.

"(2) Exclusion for employers receiving on-the-job training payments.—The term 'wages' shall not include any amounts paid by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

"(3) Individuals for whom WIN credit claimed.—The term 'wages' does not include any amount paid or incurred by the employer to an individual with respect to whom the employer claims credit under section 40. 26 USC 40.

"(4) Termination.—The term 'wages' shall not include any amount paid or incurred after December 31, 1980.

"(d) Members of Targeted Groups.—For purposes of this subpart—

"(1) In general.—An individual is a member of a targeted group if such individual is—

"(A) a vocational rehabilitation referral,

"(B) an economically disadvantaged youth,

"(C) an economically disadvantaged Vietnam-era veteran,

"(D) an SSI recipient,

"(E) a general assistance recipient, or

"(F) a youth participating in a cooperative education program, or

"(G) an economically disadvantaged ex-convict.

"(2) Vocational rehabilitation referral.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or 29 USC 701 note.

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(3) Economically disadvantaged youth.—

"(A) In general.—The term 'economically disadvantaged youth' means any individual who is certified by the designated local agency as—

"(i) meeting the age requirements of subparagraph (B), and

"(ii) being a member of an economically disadvantaged family (as determined under paragraph (9)).

"(B) Age requirements.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not age 25 on the hiring date.

"(4) Vietnam veteran who is a member of an economically disadvantaged family.—The term 'Vietnam veteran who is a member of an economically disadvantaged family' means any individual who is certified by the designated local agency as—

"(A)(i) having served on active day (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

"(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

"(B) not having any day during the premployment period which was a day of extended active duty in the Armed Forces of the United States,

"(C) being a member of an economically disadvantaged family (determined under paragraph (9)), and

"(D) not having attained the age of 35 on the hiring date.

For purposes of subparagraph (B), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

42 USC 1381.
42 USC 1382e.
87 Stat. 155.

"(5) SSI RECIPIENTS.—The term 'SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending in the pre-employment period.

"(6) GENERAL ASSISTANCE RECIPIENTS.—

"(A) IN GENERAL.—The term 'general assistance recipient' means any individual who is certified by the designated local agency as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the preemployment period.

"(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term 'qualified general assistance program' means any program of a State or a political subdivision of a State—

"(i) which provides general assistance or similar assistance which—

"(I) is based on need, and

"(II) consists of money payments, and

"(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare) as meeting the requirements of clause (i).

"(7) ECONOMICALLY DISADVANTAGED EX-CONVICT.—The term 'economically disadvantaged ex-convict' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as being a member of an economically disadvantaged family (as determined under paragraph (9)), and

"(C) as having a hiring date which is not more than 5 years after the last date on which such individual was so convicted or was released from prison.

"(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM.—

"(A) IN GENERAL.—The term 'youth participating in a qualified cooperative education program' means any individual who is certified by the school participating in the program as—

"(i) having attained age 16 and not having attained age 19,

"(ii) not having graduated from a high school or vocational school, and

"(iii) being enrolled in and actively pursuing a qualified cooperative education program.

"(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term 'qualified cooperative education program' means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

"(C) QUALIFIED SCHOOL DEFINED.—The term 'qualified school' means—

"(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market,

"(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

"(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a).

26 USC 501.

"(D) INDIVIDUAL MUST BE CURRENTLY PURSUING PROGRAM.—Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are attributable to services performed while the individual meets the requirements of subparagraph (A).

"(9) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had an income during the 6 months immediately preceding the month in which the hiring date occurs, which, on an annual basis would be less than 70 percent of the Bureau of Labor Statistics lower living standard.

"(10) PREEMPLOYMENT PERIOD.—The term 'preemployment period' means the 60-day period ending on the hiring date.

"(11) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(12) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means the agency for any locality designated jointly by the Secretary and the Secretary of Labor to perform certification of employees for employer in that locality.

"(e) QUALIFIED FIRST-YEAR WAGES CANNOT EXCEED 30 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified first-year wages which may be taken into account under subsection (a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b). 26 USC 3306.

"(f) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (h)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52. 26 USC 52.

"(3) YEAR DEFINED.—For purposes of this subsection and subsection (h), the term 'year' means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (e), such term means the calendar year.

"(g) SECRETARY OF LABOR TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The Secretary of Labor, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the credit provided by section 44B. *Infra.*

"(h) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—

"(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000. 26 USC 3121.

"(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

"(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term 'wages' means unemployment insurance wages (determined without regard to any dollar limitation)."

(b) JOBS CREDIT MADE ELECTIVE.—

(1) Section 44B (relating to credit for employment of certain new employees) is amended— 26 USC 44B.

(A) by striking out "There shall be allowed" in subsection (a) and inserting in lieu thereof "At the election at the taxpayer, there shall be allowed", and

(B) by adding at the end thereof the following new subsection:

"(c) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (a) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(2) MANNER OF MAKING ELECTION.—Any election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may be regulations prescribe."

(2) Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection: 26 USC 6501.

"(q) DEFICIENCY ATTRIBUTABLE TO ELECTION UNDER SECTION 44B.—The period for assessing a deficiency attributable to any election under section 44B (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)." 26 USC 44B.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 52.— 26 USC 52.

(A) Section 52 (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), (i), and (j), and

(ii) by redesignating subsections (d), (f), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(B) Subsections (a) and (b) of section 52 are each amended by striking out "proportionate contribution to the increase in unemployment insurance wages" and inserting in lieu thereof "proportionate share of the wages".

(C) Subsection (e) of section 52 (as redesignated by subparagraph (A)) is amended—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking out ", and" at the end of paragraph (2) and inserting a period; and

(iii) by striking out paragraph (3).

(2) AMENDMENTS OF SECTION 53.— 26 USC 53.

(A) Subsection (a) of section 53 is amended by striking out "the amount of the tax imposed by this chapter for the taxable year, reduced by" and inserting in lieu thereof "90 percent of the excess of the tax imposed by this chapter for the taxable year over the sum of".

(B) Section 53 (relating to limitation based on amount of tax is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(d) EFFECTIVE DATE.— 26 USC 51 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) SPECIAL RULES FOR NEWLY TARGETED GROUPS.—

(A) INDIVIDUAL MUST BE HIRED AFTER SEPTEMBER 26, 1978.—In the case of a member of a newly targeted group—

(i) such individual shall be taken into account for purposes of the credit allowable by section 44B of the Internal Revenue Code of 1954 only if such individual is first hired by the employer after September 26, 1978, and

Ante, p. 2834.

(ii) such individual shall be treated for purposes of such credit as having first begun work for the employer not earlier than January 1, 1979.

(B) **Member of newly targeted group defined.**—For purposes of subparagraph (A), an individual is a member of a newly targeted group if—

(i) such individual meets the requirements of subparagraph (A), (C), (D), (E), (F), or (G) of section 51(d)(1) of such Code, and

Ante, p. 2830.

(ii) in the case of an individual meeting the requirements of subparagraph (A) of such section 51(d)(1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979.

(3) **Transitional rule.**—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

26 USC 53.

(A) the amount of the credit which would be so allowable without regard to the amendments made by this section, plus

(B) the amount which would be so allowable by reason of the amendments made by this section.

26 USC 53 note.

(4) **Subsection (c)(2).**—The amendments made by subsection (u)(2) shall apply to taxable years beginning after December 31, 1978.

SEC. 322. WORK INCENTIVE PROGRAM CREDIT CHANGES.

26 USC 50A.

(a) **Changes in Amount of Credit.**—Section 50A(a) (relating to amount of credit) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

26 USC 40.

"(1) **General rule.**—The amount of the credit allowed by section 40 for the taxable year shall be equal to the sum of—

"(A) 50 percent of the first-year work incentive program expenses, and

"(B) 25 percent of the second-year work incentive program expenses.

"(2) **Limitation based on amount of tax.**—Notwithstanding paragraph (1), the amount of the credit allowed by section 40 for the taxable year shall not exceed the liability for tax for the taxable year.".

26 USC 50A.

(b) **Changes in Limitations.**—Subsection (a) of section 50A is amended by striking out paragraphs (4), (5), and (6) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) **Limitation with respect to nonbusiness eligible employees.**—

"(A) **In general.**—In the case of any work incentive program expenses paid or incurred by the taxpayer during the taxable year to eligible employees whose services are not performed in connection with a trade or business of the taxpayer—

"(i) paragraph (1)(A) shall be applied by substituting '35 percent' for '50 percent', "(ii) subparagraph (B) of paragraph (1) shall not apply, and

"(iii) the aggregate amount of such work incentive program expenses which may be taken into account under paragraph (1) for such taxable year may not exceed $12,000.

"(B) DEPENDENT CARE CREDIT MAY NOT BE CLAIMED.—No credit shall be allowed under section 44A with respect to any amounts paid or incurred by the taxpayer with respect to which the taxpayer is allowed a credit under section 40. *Ante*, p. 2834. 26 USC 40.

"(C) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, subparagraph (A) shall be applied by substituting '$6,000' and '$12,000'. The preceding sentence shall not apply if the spouse of the taxpayer has no work incentive program expenses described in such subparagraph for the taxable year.".

(c) REPEAL OF PROVISIONS PERMITTING RECOVERY OF CREDIT.—Section 50A is amended by striking out subsections (c) and (d). 26 USC 50A.

(d) CHANGES IN DEFINITIONS AND SPECIAL RULES.—

(1) Subsection (a) of section 50B (relating to work incentive program expenses) is amended to read as follows: 26 USC 50B.

"(a) WORK INCENTIVE PROGRAM EXPENSES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'work incentive program expenses' means the amount of wages paid or incurred by the taxpayer for services rendered by eligible employees.

"(2) FIRST-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'first-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day the eligible employee begins work for the taxpayer.

"(3) SECOND-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'second-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day after the last day of the one-year period described in paragraph (2).

"(4) LIMITATION ON AMOUNT OF WORK INCENTIVE PROGRAM EXPENSES.—The amount of the work incentive program expenses taken into account with respect to any eligible employee for any one-year period described in paragraph (2) or (3) (as the case may be) shall not exceed $6,000."

(2) Subsection (c) of section 50B is amended by striking out paragraphs (1) and (4) and by redesignating paragraphs (2), (3), and (5) as paragraphs (1), (2), and (3), respectively.

(3) Subsection (e) of section 50B (relating to estates and trusts) is amended—

(A) by inserting "and" at the end of paragraph (1),

(B) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(4) Section 50B is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR CONTROLLED GROUPS.—

26 USC 40.

26 USC 1563.

"(1) Controlled group of corporations.—For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 40 to each such member shall be its proportionate share of the work incentive program expenses giving rise to such credit. For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(2) Employees of partnerships, proprietorships, etc., which are under common control.—For purposes of this subpart, under regulations prescribed by the Secretary—

"(A) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

26 USC 40.

"(B) the credit (if any) allowable by section 40 with respect to each trade or business shall be its proportionate share of the work incentive program expenses giving to such credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of paragraph (1)."

26 USC 50B.

(5) Paragraph (1) of subsection (h) (as redesignated by paragraph (4)) of section 50B (relating to eligible employee) is amended to read as follows:

"(1) Eligible Employee.—For purposes of this subpart the term 'eligible employee' means an individual—

"(A) who has been certified by the Secretary of Labor or by the appropriate agency of State or local government as—

42 USC 601.

"(i) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 9-day period which immediately precedes the date on which such individual is hired by the employer, or

42 USC 632.

"(ii) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act,

"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

"(C) who has not displaced any other individual from employment by the taxpayer, and

"(D) who is not a migrant worker.

The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.".

26 USC 280C.
Ante, p. 2834.

(d) Deduction for Wages Reduced by Amount of Credit.—

(1) Section 280C (relating to portion of wages for which credit is claimed under section 44B) is amended—

(A) by striking our "SECTION 44B" in the caption and inserting in lieu thereof "SECTION 40 OR 44B",

(B) by inserting "(b) Rule for Section 44B Credit.—" immediately before "No deduction",

(C) by striking out "this section shall be applied" and inserting in lieu thereof "this subsection shall be applied" in the second sentence, and

(D) by inserting immediately after the caption of such section the following new subsection:

"(a) Rule for Section 40 Credit.—No deduction shall be allowed for that portion of the work incentive program expenses paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 40 (relating to credit for expenses of work incentive programs) determined without regard to the provisions of section 50A(a)(2) (relating to limitation based on amount of tax). In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 50B(g)(1)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 50B(g)(2), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under paragraphs (1) and (2) of section 50B(g).".

26 USC 40.

Ante, p. 2836.

Ante, p. 2837.

(e) Effective Date.—

26 USC 50A note.

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to work incentive program expenses paid or incurred after December 31, 1978, in taxable years ending after such date; except that so much of the amendment made by subsection (a) as affects section 50A(a)(2) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1978.

(2) Special rules for certain eligible employees.—

(A) Eligible employees hired before September 27, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired before September 27, 1978, no credit shall be allowed under section 40 with respect to second-year work incentive program expenses (as defined in section 50B(a)) attributable to service performed by such employee.

Ante, p. 2837.

Ante, p. 2837.

(B) Eligible employees hired after September 26, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired after September 27, 1978, such individual shall be treated for purposes of the credit allowed by section 40 as having first begun work for the taxpayer not earlier than January 1, 1979.

26 USC 40.

Subtitle D—Tax-Exempt Bonds

PART I—INDUSTRIAL DEVELOPMENT BONDS

SEC. 331. INCREASE IN LIMIT ON SMALL ISSUES OF INDUSTRIAL DEVELOPMENT BONDS.

(a) General Rule.—Subparagraph (D) of section 103(b)(6) (relating to $5,000,000 limit in certain cases) is amended by striking out "$5,000,000" in the heading and in the text and inserting in lieu thereof "$10,000,000".

26 USC 103.

(b) Treatment of Certain Urban Development Action Grants.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(I) Aggregate amount of capital expenditures where there is urban development action grant.—In the case of any issue substantially all of the proceeds of which are to be

42 USC 5301 note.

used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (D)(ii)."

26 USC 103 note.

(c) Effective Dates.—

(1) The amendments made by subsection (a) shall apply to—

(A) obligations issued after December 31, 1978, in taxable years ending after such date, and

(B) capital expenditures made after December 31, 1978, with respect to obligations issued before January 1, 1979.

(2) The amendment made by subsection (b) shall apply to—

(A) obligations issued after September 30, 1979, in taxable years ending after such date, and

(B) capital expenditures made after September 30, 1979, with respect to obligations issued after such date.

SEC. 332. LOCAL FURNISHING OF ELECTRIC ENERGY.

26 USC 103.

(a) In General.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (E), the local furnishing of electric energy from a facility shall include furnishing solely within the area consisting of a city and 1 contiguous county."

26 USC 103 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years ending after April 30, 1968, but only with respect to obligations issued after such date.

SEC. 333. INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES.

26 USC 103.

(a) In General.—Subparagraph (G) of section 103(b)(4) (relating to industrial development bonds) is amended to read as follows:

"(G) facilities for the furnishing of water for any purpose if—

"(i) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

"(ii) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof."

26 USC 103 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

SEC. 334. ADVANCE REFUNDING OF INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN PUBLIC WORKS.

26 USC 103.

(a) In General.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Advance refunding of qualified public facilities.—

"(A) In general.—Paragraph (1) shall not apply to a refunding issue if substantially all the proceeds of the refunded issue were used to provide a qualified public facility.

"(B) QUALIFIED PUBLIC FACILITY DEFINED.—For purposes of subparagraph (A), the term 'qualified public facility' means facilities described in subparagraph (C) or (D) of paragraph (4) which are generally available to the general public."

(b) OBLIGATION MAY NOT BE HELD BY SUBSTANTIAL USER.—Paragraph (8) of section 103(b) (as redesignated by subsection (a)) is amended by striking out "and (6)" and inserting in lieu thereof "(6), and (7)". 26 USC 103.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 103 note.

PART II—OTHER TAX-EXEMPT BOND PROVISIONS

SEC. 336. DECLARATORY JUDGMENT PROCEDURE FOR JUDICIAL REVIEW OF DETERMINATIONS RELATING TO GOVERNMENTAL OBLIGATIONS.

(a) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7478. DECLARATORY JUDGMENTS RELATING TO STATUS OF CERTAIN GOVERNMENTAL OBLIGATIONS. 26 USC 7478.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving—

"(1) a determination by the Secretary whether prospective obligations are described in section 103(a), or 26 USC 103.

"(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether such prospective obligations are described in section 103(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the prospective issuer.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(b) AUTHORITY OF TAX COURT TO ASSIGN PROCEEDINGS TO COMMISSIONERS.—

(1) IN GENERAL.—Subsection (c) of section 7456 (relating to commissioners of the Tax Court) is amended by adding at the end thereof the following new sentence: "The chief judge may assign 26 USC 7456.

26 USC 7428, 7476, 7477, 7478.

proceedings under sections 7428, 7476, 7477, and 7478 to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceedings, subject to such conditions and review as the court may by rule provide."

(2) Technical amendments.—

26 USC 7476.

(A) Section 7476 is amended by striking out subsection (c) and by redesignating subsections (d) and (e) and subsections (c) and (d), respectively.

26 USC 7477.

(B) Section 7477 is amended by striking out subsection (c).

(c) Technical and Conforming Amendments.—

26 USC 7482.

(1) Paragraph (1) of section 7482(b) (relating to venue for appeal of decision of Tax Court) is amended—

(A) by striking out "provided in paragraph (2)" in paragraph (1) and inserting in lieu thereof "provided in paragraphs (2) and (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) Declaratory judgment actions relating to status of certain governmental obligations.—In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia."

26 USC 7478.

26 USC 7476.

(2) The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7478. Declaratory judgments relating to status of certain governmental obligations."

26 USC 7478 note.

(d) Effective Date.—The amendments made by this section shall apply to requests for determinations made after December 31, 1978.

SEC. 337. DISPOSITION OF AMOUNTS GENERATED BY ADVANCE REFUNDING OF CERTAIN GOVERNMENTAL OBLIGATIONS.

26 USC 103 note.

(a) General Rule.—The payment to a charitable organization or a refund profit held in a trust fund or escrow arrangement, or held by an underwriter or other person under a qualified agreement in accordance with that agreement—

(1) shall not cause the refunding obligations out of which the refund profit arose to be treated as arbitrage bonds (within the meaning of section 103(c) of the Internal Revenue Code of 1954) and

26 USC 103.

(2) may be paid without penalty imposed on the issuer of such obligations.

(b) Rule for Governments Which Have Already Paid Arbitrage Profits to the United States.—In the case of a State or local government which, before January 1, 1977—

(1) requested in writing a rule by the Internal Revenue Service with respect to the tax consequences of paying refund profit to charitable organizations,

(2) failed to receive a favorable ruling and did not pay the refund profit to a charitable organization, and

which accounted to the United States for refund profit by direct payment to the United States, or by the purchase of low-interest United States obligations, the Secretary of the Treasury shall pay, out of any amounts in the Treasury not otherwise appropriated, an amount equal to the refund profit for which the State or local government has accounted to the United States. Amounts paid to a State or local government under this subsection shall be distributed to such charitable organizations within 90 days after the date on which the payment is received by the State or local government in the same manner as if the refund profit had not been paid to the United States and met the requirements of subsection (a).

(c) Definitions.—For purposes of this section—

(1) Refund profit.—The term "refund profit" means interest, profit, or other amounts generated by, or arising out of, the advance refunding, before September 24, 1976, of an obligation of a State or local government described in section 103 of such Code. 26 USC 103.

(2) Charitable organization.—The term "charitable organization" means an organization described in section 501(c)(3) of such Code and exempt from taxation under section 501(a) of such Code other than an organization described in section 509(a) of such Code. 26 USC 501. 26 USC 509.

(3) Qualified agreement.—The term "qualified agreement" means an agreement (whether or not enforceable) which provides for, or contemplates, the payment of refund profit to one or more charitable organizations.

(4) Low-interest United States obligations.—The term "low-interest United States obligations" means United States obligations which bear an interest rate lower than the highest rate of interest borne by public debt securities generally available for purchase at the time such obligations were purchased.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

SEC. 341. SUBCHAPTER S CORPORATIONS ALLOWED 15 SHAREHOLDERS.

(a) General Rule.—Paragraph (1) of section 1371(a) (defining small business corporation) is amended to read as follows: 26 USC 1371.

"(1) have more than 15 shareholders;".

(b) Technical Amendments.—

(1) Section 1371 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(2) Paragraph (2) of section 1371(a) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

SEC. 342. PERMITTED SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS.

(a) Husband and Wife Treated as One Individual.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) Stock Owned by Husband and Wife.—For purposes of subsection (a)(1), a husband and wife (and their estates) shall be treated as one shareholder."

(b) Grantor of Grantor Trust Treated as the Shareholder.—Subsection (e) of section 1371 (as redesignated by section 331(b)(1) of this Act) is amended by inserting after the first sentence the following new sentence: "In the case of a trust described in paragraph (1), the grantor shall be treated as the shareholder."

SEC. 343. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

(a) General Rule.—Subsection (c) of section 1372 (relating to when and how subchapter S election may be made) is amended to read as follows: 26 USC 1372.

"(c) When and How Made.—

"(1) In general.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) Treatment of certain late elections.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

"(3) Manner of making election.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations."

(b) Technical Amendments.—

26 USC 1372.

(1) The second sentence of section 1372(a) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election."

(2) Subparagraph (A) of section 1372(e)(1) is amended to read as follows:

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation on the day on which the election is made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock."

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would otherwise have been effective)" after "in the corporation".

SEC. 344. EFFECTIVE DATE.

26 USC 1371 note.

The amendments made by this part shall apply to taxable years beginning after December 31, 1978.

PART II—OTHER PROVISIONS

SEC. 345. SMALL BUSINESS CORPORATION STOCK.

26 USC 1244.

(a) Increase to $1,000,000 Amount of Stock Potentially Subject to Ordinary Loss Treatment; Removal of Equity Capital Test.—Subsection (c) of section 1244 (relating to losses on small business stock) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(3) Small business corporation defined.—

"(A) In general.—For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed $1,000,000. The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

"(B) Amount taken into account with respect to property.—For purposes of subparagraph (A), the amount taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation."

(b) INCREASE IN MAXIMUM AMOUNT TREATED AS ORDINARY LOSS FOR ANY TAXABLE YEAR.—Subsection (b) of section 1244 is amended— 26 USC 1244.

(1) by striking out "$25,000" in paragraph (1) and inserting in lieu thereof "$50,000", and

(2) by striking out "$50,000" in paragraph (2) and inserting in lieu thereof "$100,000".

(c) REMOVAL OF REQUIREMENT THAT STOCK ISSUANCE BE PURSUANT TO PLAN.—Subsection (c) of section 1244 (defining section 1244 stock) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—For purposes of this section, the term 'section 1244 stock' means common stock in a domestic corporation if—

"(A) at the time such stock is issued, such corporation was a small business corporation,

"(B) such stock was issued by such corporation for money or other property (other than stock and securities), and

"(C) such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

"(2) RULES FOR APPLICATION OF PARAGRAPH (1)(C).—

"(A) PERIOD TAKEN INTO ACCOUNT WITH RESPECT TO NEW CORPORATIONS.—For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

"(i) the period of the corporation's taxable years ending before such date, or

"(ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

"(B) GROSS RECEIPTS FROM SALES OF SECURITIES.—For purposes of paragraph (1)(C), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.

"(C) NONAPPLICATION WHERE DEDUCTIONS EXCEED GROSS INCOME.—Paragraph (1)(C) shall not apply with respect to any corporation if, for the period taken into account for purposes of paragraph (1)(C), the amount of the deductions allowed by this chapter (other than by sections 172, 243, 244, and 245) exceeds the amount of gross income." 26 USC 172, 243, 244, 245.

(d) TECHNICAL AMENDMENTS.—Paragraph (2) of section 1244(d) (relating to special rules) is amended— 26 USC 1244.

(1) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (C)", and

(2) by striking out "paragraphs (1)(E) and (2)(A)" and inserting in lieu thereof "paragraphs (1)(C) and (3)(A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act. 26 USC 1244 note.

Subtitle F—Accounting Provisions

SEC. 351. TREATMENT OF CERTAIN CLOSELY HELD FARM CORPORATIONS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

26 USC 447.

(a) General Rule.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end thereof the following new subsection:

"(h) Exception for Certain Closely Held Corporations.—

"(1) In general.—This section shall not apply to any corporation if, on October 4, 1976, and at all times thereafter—

"(A) members of 2 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 65 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 65 percent of the total number of shares of all other classes of stock of such corporation; or

"(B)(i) members of 3 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of such corporation; and

"(ii) substantially all of the stock of such corporation which is not so owned (directly or through the application of subsection (d)) by members of such 3 families is owned directly—

26 USC 267.

"(I) by employees of the corporation or members of their families (within the meaning of section 267(c)(4)), or

26 USC 401.
26 USC 501.

"(II) by a trust for the benefit of the employees of such corporation which is described in section 401(a) and which is exempt from taxation under section 501(a).

"(2) Stock held by employees, etc.—For purposes of this subsection, stock which—

26 USC 267.

"(A) is owned directly by employes of the corporation or members of their families (within the meaning of section 267(c)(4)) or by a trust described in paragraph (1)(B)(ii)(II), and

"(B) was acquired on or after October 4, 1976, from the corporation or from a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1),

shall be treated as owned by a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1).

"(3) Corporation must be engaged in farming.—This subsection shall apply only in the case of a corporation which was, on October 4, 1976, and at all times thereafter, engaged in the trade or business of farming."

26 USC 447 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

SEC. 352. ACCOUNTING FOR GROWING CROPS.

26 USC 447 note.

(a) Application of Section.—This section shall apply to a taxpayer who—

(1) is a farmer, nurseryman, or florist,

(2) is on an accrual method of accounting, and

(3) is not required by section 447 of the Internal Revenue Code of 1954 to capitalize preproductive period expenses. 26 USC 447.

(b) TAXPAYER MAY NOT BE REQUIRED TO INVENTORY GROWING CROPS.—A taxpayer to whom this section applies may not be required to inventory growing crops for any taxable year beginning after December 31, 1977.

(c) TAXPAYER MAY ELECT TO CHANGE TO CASH METHOD.—A taxpayer to whom this section applies may, for any taxable year beginning after December 31, 1977 and before January 1, 1981, change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops.

(d) SECTION 481 OF CODE TO APPLY.—Any change in the way in which a taxpayer accounts for the costs of growing crops resulting from the application of subsection (b) or (c)— 26 USC 481.

(1) shall not require the consent of the Secretary of the Treasury or his delegate, and

(2) shall be treated, for purposes of section 481 of the Internal Revenue Code of 1954, as a change in the method of accounting initiated by the taxpayer.

(e) GROWING CROPS.—For purposes of this section, the term "growing crops" does not include trees grown for lumber, pulp, or other nonlife purposes.

SEC. 353. TREATMENT OF CERTAIN FARMS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out "nursery" in subsection (a) thereof and adding in lieu thereof "nursery or sod farm". 26 USC 447.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976. 26 USC 447 note.

Subtitle G—Other Business Provisions

SEC. 361. DISALLOWANCE OF CERTAIN DEDUCTIONS FOR YACHTS, HUNTING LODGES, ETC.

(a) EXTENSION OF RULE DISALLOWING DEDUCTIONS FOR FACILITIES.—So much of paragraph (1) of section 274(a) (relating to disallowance of certain entertainment, etc., expenses) as follows subparagraph (A) is amended to read as follows: 26 USC 274.

"(B) FACILITY.—With respect to a facility used in connection with an activity referred to in subparagraph (A).

In the case of an item described in subparagraph (A), the deduction shall in no event exceed the portion of such item which meets the requirements of subparagraph (A).".

(b) COUNTRY CLUBS.—Paragraph (2) of section 274(2) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of a country club, paragraph (1)(B) shall apply unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items paid or incurred after December 31, 1978, in taxable years ending after such date. 26 USC 274 note.

SEC. 362. DEFICIENCY DIVIDEND PROCEDURE FOR REGULATED INVESTMENT COMPANIES.

(a) General Rule.—Subchapter M of chapter 1 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART III—PROVISIONS WHICH APPLY TO BOTH REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

"Sec. 860. Deduction for deficiency dividends.

26 USC 860.

"SEC. 860. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) General Rule.—If a determination with respect to any qualified investment entity results in any adjustment for any taxable year, a deduction shall be allowed to such entity for the amount of deficiency dividends for purposes of determining the deduction for dividends paid (for purposes of section 852 or 857, whichever applies) for such year.

26 USC 852, 857.

"(b) Qualified Investment Entity Defined.—For purposes of this section, the term 'qualified investment entity' means—

"(1) a regulated investment company, and

"(2) a real estate investment trust.

"(c) Rules for Application of Section.—

"(1) Interest and additions to tax determined with respect to the amount of deficiency dividend deduction allowed.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the qualified investment entity for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(b)) for the taxable year with respect to which the determination is made, and

26 USC 6601.

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(2) Credit or refund.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(d) Adjustment.—For purposes of this section—

"(1) Adjustment in the case of regulated investment company.—In the case of any regulated investment company, the term 'adjustment' means—

"(A) any increase in the investment company taxable income of the regulated investment company (determined without regard to the deduction for dividends paid (as defined in section 561)),

26 USC 561.

"(B) any increase in the amount of the excess described in section 852(b)(3)(A) (relating to the excess of the net capital

26 USC 852.

gain over the deduction for capital gain dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends. 26 USC 561.

"(2) Adjustment in the case of real estate investment trust.—In the case of any real estate investment trust, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A), 26 USC 857.

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends. 26 USC 561.

"(e) Determination.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or 26 USC 7121.

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the qualified investment entity relating to the liability of such entity for tax.

"(f) Efficiency Dividends.—

"(1) Definition.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the qualified investment entity on or after the date of the determination and before filing claim under subsection (g), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (g).

"(2) Limitations.—

"(A) Ordinary dividends.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of paragraph (1) or (2) of subsection (d) (whichever applies) over the amount of any increase in the deduction for dividends paid computed without regard to capital gain dividends) for such taxable year which results from such determination, and "(ii) the amount of decreased referred to in subparagraph (C) of paragraph (1) or (2) of subsection (d) (whichever applies).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of paragraph (1) or (2) of subsection (d) (whichever applies), exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

26 USC 855, 858.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 855(a) or 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(g) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefore is filed within 120 days after the date of the determination.

"(h) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

26 USC 6501.

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the qualified investment entity files a claim as provided in subsection (g), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (g), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(i) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willfull failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(j) PENALTY.—

> **"For assessable penalty with respect to liability for tax of a qualified investment entity which is allowed a deduction under subsection (a), see section 6697."**

(b) ASSESSABLE PENALITIES.—Section 6697 (relating to assessable penalties with respect to liability for tax of real estate investment trusts) is amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF QUALIFIED INVESTMENT ENTITIES.

26 USC 6697.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase.

26 USC 860.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

26 USC 6211.

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 852(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 860(e)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

26 USC 852.

26 USC 860.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 316(b) (relating to deficiency dividend distributions by a real estate investment trust) is amended—

26 USC 316.

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)", and

(B) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(2) Paragraph (25) of section 381(c) is amended—

26 USC 381.

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)",

(B) by striking out "section 859" and inserting in lieu thereof "section 860", and

(C) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(3) Subparagraph (C) of section 857(b)(3) is amended by striking out "section 859(c)" and inserting in lieu thereof "section 860(e)".

26 USC 857.

26 USC 6422, 6515.

(4) Sections 6422(14) and 6515(5) are each amended—

(A) by inserting "regulated investment company or" before "real estate investment trust", and

(B) by striking out "859" and inserting in lieu thereof "860",

26 USC 6503.

(5) Paragraph (5) of section 6503(i) is amended to read as follows:

"(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h)."

26 USC 859, 860.

(6) Part II of subchapter M of chapter 1 is amended by striking out section 859 and redesignating section 860 as section 859.

(7) The table of sections for part II of subchapter M of chapter 1 is amended by striking out the items relating to sections 859 and 860 and inserting in lieu thereof the following:

"Sec. 859. Adoption of annual accounting period."

(8) The table of parts for subchapter M of chapter 1 is amended by adding at the end thereof the following new item:

"Part III. Provisions which apply to both regulated investment companies and real estate investment trusts."

26 USC 6697.

(9) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of qualified investment entities."

26 USC 860 note.

26 USC 860.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations (as defined in section 860(d) of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

SEC. 363. REAL ESTATE INVESTMENT TRUST PROVISIONS.

(a) LIMITATIONS.—

26 USC 856.

(1) Section 856(c)(2) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

26 USC 857.

26 USC 856.

(2) Section 856(c)(3) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

26 USC 856.

(3) Subparagraph (B) of section 856(c)(4) (relating to limitations) is amended to read as follows:

"(B) property in a transaction which is a prohibited transaction; and".

26 USC 857.

(b) PROHIBITED TRANSACTIONS.—Paragraph (6) of section 857(b) (relating to income from prohibited transactions) is amended by adding the following subparagraphs at the end thereof:

"(C) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset as defined in section 856(c)(6)(B) if—

"(i) the trust has held the property for not less than 4 years;

"(ii) aggregate expenditures made by the trust, or any partner of the trust, during the 4-year period preceding the date of sale which are includible in the basis of the property do not exceed 20 percent of the net selling price of the property;

"(iii) during the taxable year the trust does not make more than 5 sales of property (other than foreclosure property); and

"(iv) in the case of property, which consists of land or improvements, not acquired through foreclosure (or deed in lieu of foreclosure), or lease termination, the trust has held the property for not less than 4 years for production of rental income.

"(D) SPECIAL RULES.—In applying subparagraph (C) the following special rules apply:

"(i) The holding period of property acquired through foreclosure (or deed in lieu of foreclosure), or termination of the lease, includes the period for which the trust held the loan which such property secured, or the lease of such property.

"(ii) In the case of a property acquired through foreclosure (or deed in lieu of foreclosure), or termination of a lease, expenditures made by, or for the account of, the mortgagor or lessee after default became imminent will be regarded as made by the trust.

"(iii) Expenditures (including expenditures regarded as made directly by the trust, or indirectly by any partner of the trust, under clause (ii)) will not be taken into account if they relate to foreclosure property and did not cause the property to lose its status as foreclosure property.

"(iv) Expenditures will not be taken into account if they are made solely to comply with standards or requirements of any government or governmental authority having relevant jurisdiction, or if they are made to restore the property as a result of losses arising from fire, storm or other casualty.

"(v) The term 'expenditures' does not include advances on a loan made by the trust.

"(vi) The sale of more than one property to one buyer as part of one transaction constitutes one sale.

"(vii) The term 'sale' does not include any transaction in which the net selling price is less than $10,000.

"(E) SALES NOT MEETING REQUIREMENTS.—In determining whether or not any sale constitutes a 'prohibited transaction' for purposes of subparagraph (A), the fact that such sale does not meet the requirements of subparagraph (C) of this paragraph shall not be taken into account; and such determination, in the case of a sale not meeting such requirements, shall be made as if subparagraphs (C) and (D) had not been enacted."

(c) EXTENSIONS.—Paragraph (3) of section 856(e) (relating to extensions) is amended to read as follows: 26 USC 856.

"(3) EXTENSIONS.—If the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period is necessary for the orderly liquidation of the trust's interests in such property, the Secretary may grant one or more extensions of the grace period for such property. Any such extension shall not extend the grace period beyond the date which is 6 years after the date such trust acquired such property."

26 USC 856 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after the date of the enactment of this Act. The amendment made by subsection (c) shall apply to extensions granted after the date of the enactment of this Act with respect to periods beginning after December 31, 1977.

SEC. 364. CONTRIBUTIONS IN AID OF CONSTRUCTION.

26 USC 118.

(a) IN GENERAL.—Section 118(b) (relating to contributions in aid of construction) is amended—

(1) by striking out "water" in the portion of paragraph (1) preceding subparagraph (A) thereof and inserting in lieu thereof "electric energy, gas (through a local distribution system or transportation by pipeline), water,";

(2) by striking out "water" in paragraph (1)(B) and inserting in lieu thereof "electric energy, gas, steam, water,";

(3) by striking out "water" in paragraph (2)(A)(ii) and by inserting in lieu thereof "electric energy, gas, steam, water,";

(4) by striking out "property" in paragraph (3)(A) and by inserting in lieu thereof "line" and by striking out "a main water or sewer line" in paragraph (3)(A) and by inserting in lieu thereof "an electric line, a gas main, a steam line, or a main water or sewer line"; and

(5) by amending paragraph (3)(C) to read as follows:

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area."

26 USC 7701.

26 USC 118 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after January 31, 1976.

SEC. 365. LIABILITIES OF CONTROLLED CORPORATIONS.

26 USC 357.

(a) IN GENERAL.—Subsection (c) of section 357 (relating to assumption of liability) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN LIABILITIES EXCLUDED.—

"(A) IN GENERAL.—If—

"(i) the taxpayer's taxable income is computed under the cash receipts and disbursements method of accounting, and

"(ii) such taxpayer transfers, in an exchange to which section 351 applies, a liability which is either—

26 USC 351.

"(I) an account payable payment of which would give rise to a deduction, or

"(II) an amount payable which is described in section 736(a),

26 USC 736.

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property transferred is subject.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any liability to the extent that the incurrence of the liability resulted in the creation of, or an increase in, the basis of any property."

(b) BASIS OF DISTRIBUTEES.—Subsection (d) of section 358 (relating to basis to distributees) is amended to read as follows: 26 USC 358.

"(d) ASSUMPTION OF LIABILITY.—

"(1) IN GENERAL.—Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for purposes of this section, be treated as money received by the taxpayer on the exchange.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the amount of any liability excluded under section 357(c)(3)." 26 USC 357.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers occurring on or after the date of the enactment of this Act. 26 USC 357 note.

SEC. 366. MEDICAL EXPENSE REIMBURSEMENT PLANS.

(a) GENERAL RULE.—Section 105 (relating to accident and health plans) is amended by adding at the end thereof the following: 26 USC 105.

"(h) AMOUNT PAID TO HIGHLY COMPENSATED INDIVIDUALS UNDER A DISCRIMINATORY SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLAN.—

"(1) IN GENERAL.—In the case of amounts paid to a highly compensated individual under a self-insured medical reimbursement plan which does not satisfy the requirements of paragraph (2) for a plan year, subsection (b) shall not apply to such amounts to the extent they constitute an excess reimbursement of such highly compensated individual.

"(2) PROHIBITION OF DISCRIMINATION.—A self-insured medical reimbursement plan satisfies the requirements of this paragraph only if—

"(A) the plan does not discriminate in favor of highly compensated individuals as to eligibility to participate; and

"(B) the benefits provided under the plan do not discriminate in favor of participants who are highly compensated individuals.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATIONS.—

"(A) IN GENERAL.—A self-insured medical reimbursement plan does not satisfy the requirements of subparagraph (A) of paragraph (2) unless such plan benefits—

"(i) 70 percent or more of all employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all employees are eligible to benefit under the plan; or

"(ii) such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated participants.

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) employees who have not attained age 25;

"(iii) part-time or seasonal employees;

"(iv) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if accident and health benefits were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(v) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(b)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

26 USC 911.

26 USC 861.

"(4) NONDISCRIMINATORY BENEFITS.—A self-insured medical reimbursement plan does not meet the requirements of subparagraph (B) of paragraph (2) unless all benefits provided for participants who are highly compensated individuals are provided for all other participants.

"(5) HIGHLY COMPENSATED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'highly compensated individual' means an individual who is—

"(A) one of the 5 highest paid officers,

"(B) a shareholder who owns (with the application of section 318) more than 10 percent in value of the stock of the employer, or

26 USC 318.

"(C) among the highest paid 25 percent of all employees (other than employees described in paragraph (3)(B) who are not participants).

"(6) SELF-INSURED MEDICAL REIMBURSEMENT PLAN.—The term 'self-insured medical reimbursement plan' means a plan of an employer to reimburse employees for expenses referred to in subsection (b) for which reimbursement is not provided under a policy of accident and health insurance.

"(7) EXCESS REIMBURSEMENT OF HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this section, the excess reimbursement of a highly compensated individual which is attributable to a self-insured medical reimbursement plan is—

"(A) in the case of a benefit available to a highly compensated individual but not to a broad cross-section of employees, the amount reimbursed under the plan to the employee with respect to such benefit, and

"(B) in the case of benefits (other than benefits described in subparagraph (A) paid to a highly compensated individual by a plan which fails to satisfy the requirements of paragraph (2), the total amount reimbursed to the highly compensated individual for the plan year multiplied by a fraction—

"(i) the numerator of which is the total amount reimbursed to all participants who are highly compensated individuals under the plan for the plan year, and

"(ii) the denominator of which is the total amount reimbursed to all employees under the plan for such plan year.

In determining the fraction under subparagraph (B), there shall not be taken into account any reimbursement which is attributable to a benefit described in subparagraph (A).

"(8) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or

(c) of section 414 shall be treated as employed by a single employer for purposes of this section. 26 USC 414.

"(9) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(10) Time of inclusion.—Any amount paid for a plan year that is included in income by reason of this subsection shall be treated as received or accrued in the taxable year of the participant in which the plan year ends."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979. 26 USC 105 note.

SEC. 367. THREE-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1979" each place it appears and inserting in lieu thereof "January 1, 1982". 26 USC 167.

SEC. 368. DELAY IN APPLICATION OF NEW NET OPERATING LOSS RULES.

(a) In General.—Except as provided in subsection (b), paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980". 26 USC 382 note. 26 USC 382, 383.

(b) Election of Prior Law.—

(1) A taxpayer may elect not to have the amendment made by subsection (a) apply with respect to any acquisition or reorganization occurring before the end of the taxpayer's first taxable year beginning after June 30, 1978, where such acquisition or reorganization occurs pursuant to a written binding contract or option to acquire stock or assets which was entered into before September 27, 1978.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year in which a reorganization or acquisition described in paragraph (1) occurs, or, if later, within 90 days after the date of enactment of this Act. Such election shall apply to all acquisitions and reorganizations to which, but for such election, subsection (a) would apply.

SEC. 369. USE OF CERTAIN EXPIRED NET OPERATING LOSS CARRYOVERS.

(a) In General.—Clause (iv) of section 374(e)(1)(A) (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended to read as follows: 26 USC 374.

"(iv) a redemption of a certificate of value of the United States Railway Association issued under section 306 of such Act to such corporation (or issued to another member of the same affiliated group (within the meaning of section 1504) as such corporation for their taxable years which included March 31, 1967),". 26 USC 306. 26 USC 1504.

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years ending after March 31, 1976. 26 USC 374 note.

SEC. 370. INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

26 USC 861.

(a) GENERAL RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(f) INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

"(1) GENERAL RULE.—For purposes of subsection (a) and section 826(a), if—

26 USC 826.

"(A) a taxpayer leases railroad rolling stock which is section 38 property (or would be section 38 property but for section 48(a)(5)) to a domestic common carrier by railroad or a corporation which is controlled, directly or indirectly, by one or more such common carriers, and

26 USC 38.
26 USC 48.

"(B) the use under such lease is expected to be use within the United States,

all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.

"(2) PARAGRAPH (1) NOT TO APPLY WHERE LESSOR IS A MEMBER OF CONTROLLED GROUP WHICH INCLUDES A RAILROAD.—Paragraph (1) shall not apply to a lease between two members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company referred to in subparagraph (B) of section 184(d)(1).

26 USC 1563.
26 USC 184.

"(3) DENIAL OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1).".

26 USC 901.

26 USC 861 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all railroad rolling stock placed in service with respect to the taxpayer after the date of the enactment of this Act.

Supra.

(2) ELECTION TO EXTEND SECTION 861(f) TO RAILROAD ROLLING STOCK PLACED IN SERVICE BEFORE DATE OF ENACTMENT.

(A) IN GENERAL.—At the election of the taxpayer, the amendment made by subsection (a) shall also apply, for taxable years beginning after the date of the enactment of this Act, to all railroad rolling stock placed in service with respect to the taxpayer on or before such date of enactment. Such an election may not be revoked except with the consent of the Secretary of the Treasury or his delegate.

(B) MANNER AND TIME OF ELECTION AND REVOCATION.—An election under subparagraph (A), and any revocation of such an election, shall be made in such manner and at such time as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 371. NET OPERATING LOSSES ATTRIBUTABLE TO PRODUCT LIABILITY LOSSES.

(a) 10-YEAR CARRYBACK.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph: 26 USC 172.

"(H) PRODUCT LIABILITY LOSSES.—In the case of a taxpayer which has a product liability loss (as defined in subsection (i)) for a taxable year beginning after September 30, 1979 (referred to in this subparagraph as the 'loss year'), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year."

(2) CONFORMING AMENDMENT.—Clause (i) of section 172(b)(1)(A) is amended by striking out "and (G)" and inserting in lieu thereof "(G), and (H)".

(b) RULES RELATING TO PRODUCT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) RULES RELATING TO PRODUCT LIABILITY LOSSES.—For purposes of subsection (b)—

"(1) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such year reduced by any portion thereof which is attributable to a foreign expropriation loss, or

"(B) the sum of the amounts allowable as deductions under sections 162 and 165 which are attributable to— 26 USC 162, 165.

"(i) product liability, or

"(ii) expenses incurred in the investigation or settlement of, or opposition to, claims against the taxpayer on account of product liability.

"(2) PRODUCT LIABILITY.—The term 'product liability' means—

"(A) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer, but only if

"(B) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(3) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(c) APPLICATION OF ACCUMULATED EARNINGS TAX TO PRODUCT LIABILITY LOSS RESERVES.—Subsection (b) of section 537 (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph: 26 USC 537.

"(4) PRODUCT LIABILITY LOSS RESERVES.—The accumulation of reasonable amounts for the payment of reasonably anticipated product liability losses (as defined in section 172(i)), as deter- *Supra.*

mined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

26 USC 172 note.

(d) Effective Date.—The amendments made by this section shall apply with respect to taxable years beginning after September 30, 1979.

SEC. 372. EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

(a) In General.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which items of gross income included) is amended by adding at the end thereof the following new section:

26 USC 458.

"SEC. 458. MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

"(a) Exclusion From Gross Income.—A taxpayer who is on an accrual method of accounting may elect not to include in the gross income for the taxable year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Magazine.—The term 'magazine' includes any other periodical.

"(2) Paperback.—The term 'paperback' means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine.

"(3) Record.—The term 'record' means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded.

"(4) Separate application with respect to magazines, paperbacks, and records.—If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and records shall each be treated as a separate category of merchandise.

"(5) Qualified sale.—A sale of a magazine, paperback, or record is a qualified sale if—

"(A) at the time of sale, the taxpayer has a legal obligation to adjust the sales price of such magazine, paperback, or record if it is not resold, and

"(B) the sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

"(6) Amount excluded.—The amount excluded under this section with respect to any qualified sale shall be the lesser of—

"(A) the amount covered by the legal obligation described in paragraph (5)(A), or

"(B) the amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

"(7) Merchandise return period.—

"(A) Except as provided in subparagraph (B), the term 'merchandise return period' means, with respect to any taxable year—

"(i) in the case of magazines, the period of 2 months and 15 days first occurring after the close of taxable year, or

"(ii) in the case of paperbacks and records, the period of 4 months and 15 days first occurring after the close of the taxable year.

"(B) The taxpayer may select a shorter period than the applicable period set forth in subparagraph (A).

"(C) Any change in the merchandise return period shall be treated as a change in the method of accounting.

"(8) CERTAIN EVIDENCE MAY BE SUBSTITUTED FOR PHYSICAL RETURN OF MERCHANDISE.—Under regulations prescribed by the Secretary, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subsection (a), certification or other evidence that the magazine, paperback, or record has not been resold and will not be resold if such evidence—

"(A) is in the possession of the taxpayer at the close of the merchandise return period, and

"(B) is satisfactory to the Secretary.

"(9) REPURCHASED BY THE TAXPAYER NOT TREATED AS RESALE.—A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale.

"(c) QUALIFIED SALES TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribed and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall be effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(d) 5-YEAR SPREAD OF TRANSITIONAL ADJUSTMENTS FOR MAGAZINES.—In applying section 481(c) with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of section 481(a)(2) shall be the taxable year for which the election is made and the 4 succeeding taxable years. 26 USC 481.

"(e) SUSPENSE ACCOUNT FOR PAPERBACKS AND RECORDS.—

"(1) IN GENERAL.—In the case of any election under this section which applies to paperbacks or records, in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

26 USC 481.

"(2) INITIAL OPENING BALANCE.—The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the 3 immediately preceding taxable years if this section had applied to such preceding 3 taxable years. This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year the suspense account shall be—

"(A) reduced the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount excluded from gross income for the taxable year under subsection (a), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount excluded from gross income for the taxable year under subsection (a), over

"(ii) the opening balance of the account for the taxable year.

"(4) GROSS INCOME ADJUSTMENTS.—

"(A) REDUCTIONS EXCLUDED FROM GROSS INCOME.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(b) CLERICAL AMENDMENTS.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 458. Magazines, paperbacks, and records returned after the close of the taxable year."

26 USC 458 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 1979.

SEC. 373. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 466. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

26 USC 466.

"(a) ALLOWANCE OF DEDUCTION.—At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this chapter for the redemption costs of qualified discount coupons shall be an amount equal to the sum of—

"(1) such costs incurred by the taxpayer with respect to coupons—

"(A) which were outstanding at the close of the taxable year, and

"(B) which were received by the taxpayer before the close of the redemption period for the taxable year, plus

"(2) such costs (other than costs properly taken into account under paragraph (1) for a prior taxable year) incurred by the taxpayer during the taxable year.

"(b) QUALIFIED DISCOUNT COUPONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified discount coupon' means a discount coupon which—

"(A) was issued by the taxpayer,

"(B) is redeemable by the taxpayer, and

"(C) allows a discount on the purchase price of merchandise or other tangible personal property.

"(2) METHOD OF ISSUANCE NOT TAKEN INTO ACCOUNT.—The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise.

"(3) DISCOUNT ON ITEM CANNOT EXCEED $5.—A coupon shall not be a qualified discount coupon if—

"(A) the face amount of such coupon is more than $5, or

"(B) such coupon may be used with other coupons to bring about a price discount of more than $5 with respect to any item.

"(4) THERE MUST BE REDEMPTION CHAIN.—A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount. For purposes of the preceding sentence, corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a) as the issuer shall be treated as the issuer.

26 USC 1563.

"(5) REDEEMABLE BY TAXPAYER.—A coupon is redeemable by the taxpayer if the terms of the coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms.

"(c) REDEMPTION COSTS; REDEMPTION PERIOD.—For purposes of this section—

"(1) REDEMPTION COSTS.—The term 'redemption cost' means, with respect to any coupon—

"(A) the lesser of—

"(i) the amount of the discount provided by the terms of the coupon, or

"(ii) the amount incurred by the taxpayer for paying such discount, plus

"(B) the amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

"(2) REDEMPTION PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the redemption period for any taxable year is the 6-month period immediately following the close of the taxable year.

"(B) TAXPAYER MAY SELECT SHORTER PERIOD.—The taxpayer may select a redemption period which is shorter than 6 months.

"(C) CHANGE IN REDEMPTION PERIOD.—Any change in the redemption period shall be treated as a change in the method of accounting.

"(d) QUALIFIED DISCOUNT COUPONS TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such coupons are issued. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(e) SUSPENSE ACCOUNT.—

"(1) IN GENERAL.—In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under section 481(a)(2), in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made. 26 USC 481.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the amount by which—

"(A) the largest dollar amount which would have been taken into account under subsection (a)(1) for any of the 3 immediately preceding taxable years if this section had applied to such 3 preceding taxable years, exceeds

"(B) the sum of the increases in income (and the decreases in deductions) which (but for this subsection) would result under section 481(a)(2) for such first taxable years. 26 USC 481.

This subsection shall be applied by taking into account only amounts attributal to the trade or business for which such account is established.

"(3) Adjustments in suspense account.—At the close of each taxable year, the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount deducted for the taxable year under subsection (a)(1), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount deducted for the taxable year under subsection (a)(1), over

"(ii) the opening balance of the suspense account for the taxable year.

"(4) Income adjustments.—

"(A) Reductions allowed as deduction.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

"(B) Increases added to gross income.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the amount described in paragraph (2)(A) exceeds the dollar amount which would have been taken into account under subsection (a)(1) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) Subchapter C transactions.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary.

"(f) 10-Year Spread of Any Net Increase in Taxable Income Under Section 481(a)(2).—In the case of any election under this section which results in a net increase in taxable income under section 481(a)(2), under regulations prescribed by the Secretary, such net increase shall (except as otherwise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 taxable years beginning with the year for which the election is made."

(b) Clerical Amendment.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 466. Qualified discount coupons redeemed after close of taxable year."

(C) Effective Date.— 26 USC 466 note.

(1) In general.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978.

(2) Application to certain prior taxable years.—

(A) In general.—If—

(i) the taxpayer makes an election under section 466 of the Internal Revenue Code of 1954 for his first taxable year ending after December 31, 1978, and

Ante, p. 2863.

(ii) for a continuous period of 1 or more taxable years each of which ends on or before December 31, 1978, the taxpayer used the method of accounting with respect to any type of discount coupons which was reasonably similar to the method of accounting provided by section 1.451-4 of the Income Tax Regulations,

26 CFR 1.451-4.

then the taxpayer may make an election under this paragraph to have the method of accounting which he used for such continuous period treated as a valid method of accounting with respect to each such type of discount coupons for such period for purposes of the Internal Revenue Code of 1954. A taxpayer may make an election under this paragraph with respect to only one such continuous period.

26 USC 1.

(B) **Certain amounts to which method of accounting applies.**—An accounting method which the taxpayer used for the period described in subparagraph (A) may include—

(i) costs of the type permitted by section 1.451-4 of the Income Tax Regulations to be included in the estimated average cost of redeeming coupons, plus

(ii) any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

(C) **Suspense account not required in certain cases.**—A taxpayer whose election under this paragraph applies to all types of discount coupons which he issued during the continuous period referred to in subparagraph (A)(ii) shall not be required to establish a suspense account under section 466(e) of the Internal Revenue Code of 1954.

(D) **Rules relating to election under this subsection.**—An election under this paragraph may be made only before the expiration of the period for making an election under section 466 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1978. An election under this paragraph shall be made in such a manner and form as the Secretary of the Treasury or his delegate may by regulations prescribe. For purposes of the Internal Revenue Code of 1954, such an election shall be treated as a method of accounting, except that the approval of the Secretary of the Treasury or his delegate to the making of the election may not be required.

26 USC 1.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

SEC. 401. REPEAL OF ALTERNATIVE TAX ON CAPITAL GAINS OF INDIVIDUALS.

26 USC 1201.

(a) **General Rule.**—Section 1201 (relating to alternative tax) is amended—

(1) by striking out subsections (b) and (c),

(2) by redesignating subsection (d) as subsection (b), and
(3) by amending the section heading to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3(b) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively. 26 USC 3.

(2) Subsection (a) of section 5 is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively. 26 USC 5.

(3) Paragraph (1) of section 871(b) is amended by striking out "section 1, 402(e)(1), or 1201(b)" and inserting in lieu thereof "section 1 or 402(e)(1)". 26 USC 871.

(4) Paragraph (1) of section 911(d) is amended— 26 USC 911.

(A) by striking out "section 1 or section 1201" each place it appears and inserting in lieu thereof "section 1", and

(B) by striking out "(whichever is applicable)" each place it appears.

(5) Subsection (b) of section 1304 is amended— 26 USC 1304.

(A) by adding "and" at the end of paragraph (2),

(B) by striking out paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(6) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1201 and inserting in lieu thereof the following:

"Sec. 1201. Alternative tax for corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 1201 note.

SEC. 402. INCREASED CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 1202 (relating to deduction for capital gains) is amended to read as follows: 26 USC 1202.

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 60 percent of the amount of the net capital gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets. 26 USC 652, 662.

"(c) TAXABLE YEARS WHICH INCLUDE NOVEMBER 1, 1978.—If for any taxable year beginning before November 1, 1978, and ending after October 31, 1978, a taxpayer other than a corporation has a net capital gain, the deduction under subsection (a) shall be the sum of—

"(1) 60 percent of the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taking into account only sales and exchanges after October 31, 1978, plus

"(2) 50 percent of the excess of—

"(A) the net capital gain for the taxable year, over

"(B) the amount of net capital gain taken into account under paragraph (1)."

(b) TECHNICAL AMENDMENTS.—

26 USC 57.

(1) Subparagraph (A) of section 57(a)(9) (relating to treatment of capital gains for purposes of the minimum tax) is amended to read as follows:

"(A) Individuals.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202."

Ante, p. 2867.

26 USC 170.

(2) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "50 percent" and inserting in lieu thereof "40 percent".

(c) Effective Dates.—

26 USC 1202 note.

(1) The amendments made by subsections (a) and (b)(1) shall apply to taxable years ending after October 31, 1978.

26 USC 170 note.

(2) The amendment made by subsection (b)(2) shall apply to contributions made after October 31, 1978.

SEC. 403. REDUCTION OF ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS.

26 USC 1201.

(a) General Rule.—Paragraph (2) of section 1201(a) (relating to alternative tax for corporations) is amended by striking out "30 percent" and inserting in lieu thereof "28 percent".

(b) Transitional Rule.—Section 1201 is amended by adding at the end thereof the following new subsection:

"(c) Taxable Years Which Include January 1, 1979.—If for any taxable year beginning before January 1, 1979, and ending after December 31, 1978, a corporation has a net capital gain, then subsection (a) shall be applied by substituting for the language of paragraph (2) the following:

"(2)(A) a tax of 28 percent of the lesser of—

"(i) the net capital gain for the taxable year, or

"(ii) the net capital gain taking into account only sales and exchanges after December 31, 1978, plus

"(B) a tax of 30 percent of the excess of—

"(i) the net capital gains for the taxable year, over

"(ii) the amount of net capital gain taken into account under subparagraph (A)."

(c) Conforming Amendments.—

26 USC 170.

(1) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "62½ percent" and inserting in lieu thereof "28/46".

26 USC 528.

(2) Subparagraph (B) of section 528(b)(2) (relating to tax imposed on certain homeowners associations) is amended to read as follows:

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"(B) an amount determined as provided in section 1201(a) on such gain."

26 USC 857.

(3) Clause (ii) of section 857(b)(3)(A) (relating to tax on real estate investment trusts) is amended by striking out "a tax of 30 percent of" and inserting in lieu thereof "a tax determined at the rate provided in section 1201(a) on".

26 USC 904.

(4) Subsection (b) of section 904 (relating to taxable income for computing the limitation on foreign tax credits) is amended—

(A) by striking out "three-eighths" wherever it appears and inserting in lieu thereof "the rate differential portion"; and

(B) by striking the period at the end of subparagraph (D) of paragraph (3), inserting in lieu thereof a comma, and inserting immediately thereafter the following new paragraph to read as follows:

"(E) RATE DIFFERENTIAL PORTION.—The 'rate differential portion' of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)." 26 USC 11. *Ante*, p. 2868.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978. 26 USC 1201 note.

(2) The amendment made by paragraph (1) of subsection (c) shall apply to gifts made after December 31, 1978. 26 USC 170 note.

(3) The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect on the date of the enactment of this Act. 26 USC 528 note.

SEC. 404. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

(a) GENERAL RULE.—The section heading and subsections (a) and (b) section 121 are amended to read as follows: 26 USC 121.

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if—

"(1) the taxpayer has attained the age of 55 before the date of such sale or exchange, and

"(2) during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect.

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE ON OR BEFORE JULY 26, 1978.—In the case of any sale or exchange after July 26, 1978, this section shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date."

(b) TACKING OF HOLDING PERIOD IN CASE OF INVOLUNTARY CONVERSIONS.—Subsection (d) of section 121 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(8) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged." 26 USC 1033.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 121.

(1) Paragraph (2) of section 121(d) is amended by striking out "8-year period" and inserting in lieu thereof "5-year period".

(2) Paragraph (5) of section 121(d) is amended—

(A) by striking out "8-year period" and inserting in lieu thereof "5-year period", and

(B) by striking out "5 years" and inserting in lieu thereof "3 years".

(3) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence by individual who has attained age 55."

26 USC 1033.

(4) Paragraph (3) of section 1033(g) (relating to cross references) is amended to read as follows:

"(3) For one-time exclusion from gross income of gain from involuntary conversion of principal residence by individual who has attained age 55, see section 121."

26 USC 1034.

(5) Subsection (k) of section 1034 (relating to cross references) is amended to read as follows:

"(k) Cross Reference.—

"For one-time exclusion from gross income of gain from sale of principal residence by individual who has attained age 55, see section 121."

26 USC 1038.

(6) Section 1038(e)(1)(A) is amended by striking out "relating to gain from sale or exchange of residence of an individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 1250.

(7) Section 1250(d)(7)(B) is amended by striking out "relating to gains from sale or exchange of residence of individual who has attained the age of 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 6012.

(8) Section 6012(c) is amended by striking out "relating to sale of residence by individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

26 USC 121 note.

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to sales or exchanges after July 26, 1978, in taxable years ending after such date.

(2) Transitional rule.—In the case of a sale or exchange of a residence before July 26, 1981, a taxpayer who has attained age 65 on the date of such sale or exchange may elect to have section 121 of the Internal Revenue Code of 1954 applied by substituting "8-year period" for "5-year period" and "5 years" for "3 years" in subsections (a), (d)(2), and (d)(5) of such section.

SEC. 405. WAIVER OF CERTAIN 18-MONTH RULES OF SECTION 1034 WHEN SALE OF RESIDENCE IS CONNECTED WITH COMMENCING WORK AT NEW PLACE.

26 USC 1034.

(a) In General.—Subsection (d) of section 1034 (relating to sale or exchange of residence) is amended to read as follows:

"(d) Limitation.—

"(1) In general.—Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a).

"(2) Subsequent sale connected with commencing work at new place.—Paragraph (1) shall not apply with respect to the sale of the taxpayer's residence if—

"(A) such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

"(B) if the residence so sold is treated as the former residence for purposes of section 217 (relating to moving expenses), the taxpayer would satisfy the conditions of subsection (c) of section 217 (as modified by the other subsections of such section)."

26 USC 217.

(b) Related Technical Amendment.—Paragraph (4) of section 1034(c) is amended by adding at the end thereof the following new sentence: "If a principal residence is sold in a sale to which subsection (d)(2) applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period."

26 USC 1034.

(c) Clerical Amendments.—

(1) The section heading of section 1034 is amended to read as follows:

"SEC. 1034. ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1034 and inserting in lieu thereof the following new item:

"Sec. 1034. Rollover of gain on sale of principal residence."

(3) Subparagraph (B) of section 1083(e)(1) (relating to certain acquisitions of real property) is amended by striking out "(relating to sale or exchange of residence)" and inserting in lieu thereof "(relating to rollover of gain on sale of principal residence)".

26 USC 1083.

(4) Subparagraph (A) of section 1250(d)(7) (relating to gain from dispositions of certain depreciable realty) is amended by striking out "relating to sale or exchange of residence" and inserting in lieu thereof "relating to rollover of gain on sale of principal residence".

26 USC 1250.

(5) Subparagraph (C) of section 6212(c)(2) (relating to cross references) is amended by striking out "personal residence" and inserting in lieu thereof "principal residence".

26 USC 6212.

(6) Paragraph (4) of section 6504 (relating to cross references) is amended by striking out "residence" and inserting in lieu thereof "principal residence".

26 USC 6504.

(d) Effective Date.—The amendments made by this section shall apply to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date.

26 USC 1034 note.

Subtitle B—Minimum Tax Provisions

SEC. 421. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) In General.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

26 USC 55.

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) ALTERNATIVE MINIMUM TAX IMPOSED.—In the case of a taxpayer other than a corporation, if—

"(1) an amount equal to the sum of—

"(A) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000 plus

"(B) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(C) 25 percent of so much of the alternative minimum taxable income as exceeds $100,000, exceeds

"(2) the regular tax for the taxable year, then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means gross income—

"(A) reduced by the sum of the deductions allowed for the taxable year,

26 USC 667.

"(B) reduced by the sum of any amounts included in income under section 667, and

"(C) increased by an amount equal to the sum of the tax preference items for—

26 USC 57.

"(i) adjusted itemized deductions (within the meaning of section 57(a)(1)), and

"(ii) capital gains (within the meaning of section 57(a)(9)).

26 USC 72, 402, 408, 667.
26 USC 31.

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39 and 43).

26 USC 31, 39, 43.

"(c) CREDITS.—

26 USC 31.
26 USC 33.

"(1) CREDITS OTHER THAN THE FOREIGN TAX CREDIT NOT ALLOWABLE.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a)), the tax imposed by this section shall not be treated as a tax imposed by this chapter.

26 USC 901, 903–908.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under section 901 and sections 903 through 908. For purposes of this determination—

26 USC 33.

"(A) the amount of taxes paid or accrued to foreign countries or possessions of the United States in the taxable year shall be deemed to include an amount equal to the lesser of (i) the foreign tax credit allowed under section 33(a) in computing the regular tax for the taxable year, or (ii) the tax imposed under subsection (a);

26 USC 904.
26 USC 56.

"(B) the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by this section against which such credit is taken and the regular tax (excluding the tax imposed by section 56) which the taxpayer's alternative minimun taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income) bears to his entire alternative minimum taxable income for the same taxable year. For purposes of the preceding sentence, the entire alternative minimum taxable income shall be reduced by an amount equal to the zero bracket amount;

"(C) the term 'alternative minimum taxable income from sources without United States' means the excess of the items of gross income from sources without the United States over that portion of the deductions taken into account in computing alternative minimum taxable income which are deducted from those items of gross income in computing taxable income from sources without the United States; for purposes of this subparagraph, and except as provided in section 904, gross and taxable income from sources without the United States shall be determined under part I of subchapter N of chapter 1; and

"Alternative minimum taxable income from sources without United States".

26 USC 861.

"(D) the amount of foreign taxes paid during the taxable year which may be deemed to be paid in a preceding or succeeding year under section 904(c), the limitation of section 904(a) shall be increased by the lesser of (i) the amount described in subparagraph (B) or (ii) the tax imposed under subsection (a).

26 USC 904.

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In any taxable year in which a tax is imposed by this section (referred to as the current taxable year)—

"(A) EMPLOYMENT CREDIT.—For purposes of determining under section 53(c) the amount of any jobs credit carryback or carryover to any other taxable year, the amount of the limitation under section 53(a) for the current taxable year shall be deemed to be—

Ante, p. 2835.

"(i) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, reduced by

Ante, p. 2834.

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year.

"(B) WORK INCENTIVE PROGRAM CREDIT.—For purposes of determining under section 50A(b) the amount of any work incentive program credit carryback or carryover to any other taxable year, the amount of the limitation under section 50A(a)(2) for the current taxable year shall be deemed to be—

Ante, p. 2836.

"(i) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, reduced by

26 USC 40.

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, or, (II) the net tax imposed by this section for the current taxable year reduced by the amount of reduction described in clause (ii) of subparagraph (A).

"(C) INVESTMENT CREDIT.—For purposes of determining under section 46(b) the amount of any investment credit

26 USC 46.

26 USC 46.

carryback or carryover to any other taxable year, the amount of the limitation under section 46(a)(3) for the current taxable year shall be deemed to be

26 USC 38.

"(i) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year reduced by the sum of the amounts of reduction described in clause (ii) of subparagraphs (A) and (B).

26 USC 33.

"(D) NET TAX IMPOSED BY THIS SECTION.—For purposes of this paragraph, the term 'net tax imposed by this section' means the tax imposed by this section reduced by the foreign tax credit allowed under section 33 (a), as modified by paragraph (2).

26 USC 57.

(b) AMENDMENT OF SECTION 57.—Section 57 (relating to items of tax preference) is amended—

(1) by adding the following at the end of paragraph (9) subsection (a):

26 USC 1034.

"(D) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.",

26 USC 1371.
26 USC 542.
26 USC 56.

(2) by striking out the last sentence of subsection (a) and inserting in lieu thereof the following: "Paragraphs (3) and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371 (b)) and a personal holding company (as defined in section 542). For purposes of section 56, in the case of a taxpayer other than a corporation, the adjusted itemized deductions described in paragraph (1) and capital gains described in paragraph (9) shall not be treated as items of tax preference."

(3) by striking out subsection (b)(1) and inserting the following in lieu thereof:

26 USC 63.

"(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the itemized deductions (as defined in section 63(f)) other than—

26 USC 164.

"(A) the deduction for State and local taxes provided by section 164(a),

26 USC 213.

"(B) the deduction for medical, dental, etc., expenses provided by section 213,

26 USC 165.

"(C) the deduction for casualty losses described in section 165(c)(3), and

26 USC 691.

"(D) the deduction allowable under section 691(c),

exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in subparagraphs (A) through (D) for the taxable year.", and

Post, p. 2897.

(4) by striking out subparagraph (A) of subsection (b)(2), as amended by section 701 of this Act, and inserting in lieu thereof the following:

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b), 26 USC 642.

"(iii) the deduction for casualty losses described in section 165(c)(3), 26 USC 165.

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), 26 USC 651, 661, 691.

"(v) the deduction for State and local taxes provided by section 164(a), and

"(vi) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends, 26 USC 642. 26 USC 662.

exceeds 60 percent of the adjusted gross income reduced by the items in clauses (i) through (vi) for the taxable year."

(c) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended— 26 USC 58.

(1) by adding at the end of subsection (a) the following new sentence: "In the case of a married individual who files a separate return for the taxable year, the amount determined under paragraph (1) of section 55(a) shall be an amount equal to one-half of the amount which would be determined under such paragraph if the amount of the individual's alternative minimum taxable income were multiplied by 2."; 26 USC 55.

(2) by amending subsection (c) to read as follows:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the sum of the items of tax preference for any taxable year of the estate or trust shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

"(2) the $10,000 amount specified in section 56 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $10,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum, and 26 USC 56.

"(3) the liability for the tax imposed by section 55 (a) shall be determined as in the case of a married individual filing separately.", and

(3) by deleting subsection (i) (relating to the definition of corporation).

(d) TAXES TAKEN INTO ACCOUNT IN CASE OF ACCUMULATION DISTRIBUTIONS BY TRUSTS.—The second sentence of section 666(b) (relating to total taxes deemed distributed) is amended by striking out "taxes" and inserting in lieu thereof "taxes (other than the tax imposed by section 55)". 26 USC 666.

(e) TECHNICAL AMENDMENTS.—

(1) Paragraph (4) of section (5)(a) (as redesignated by section 401 of this Act) (relating to cross references relating to tax on individuals) is amended to read as follows: 26 USC 5.

"(4) For minimum tax for taxpayers other than corporations, see section 55.".

26 USC 443.

(2) Subsection (d) of section 443 (relating to adjustment in computing minimum tax for short periods) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX FOR TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a), then—

"(1) in the case of a taxpayer other than a corporation, the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying that amount by 12 and dividing the result by the number of months in the short period, and the amount computed under paragraph (1) of section 55(a) shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months; and

26 USC 55.

"(2) in the case of a corporation, the $10,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.".

26 USC 56.
26 USC 58.

26 USC 511.

(3) Subsection (d) of section 511 (relating to tax preferences) is amended to read as follows:

"(d) TAX PREFERENCES.—

"(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation of unrelated business taxable income in the same manner as section 56 applies to corporations.

26 USC 56.

"(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 and section 56 (as the case may be) shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income."

26 USC 871.

(4) Paragraph (1) of section 871(b) (relating to tax on nonresident alien individuals) is amended by inserting ", section 55," after "section 1".

26 USC 877.

(5) Subsection (b) of section 877 (relating to expatriation to avoid tax) is amended by inserting ", section 55," after "section 1".

26 USC 904.

(6) Section 904(h) (relating to cross references) is amended to read as follows:

"(h) CROSS REFERENCES.—

"(1) For increase of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).

"(2) For modification of limitation under subsection (a) for purposes of determining the amount of credit which can be taken by an individual against the alternative minimum tax, see section 55(c).".

26 USC 6015.

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Subparagraph (A) of section 6362(b) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56". 26 USC 6362.

(9) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credit against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56". 26 USC 6654.

(f) Clerical Amendment.—The table of sections for part VI of subchapter A of chapter 1 is amended by adding at the beginning thereof the following new item:

"Sec. 55. Alternative Minimum Tax for Taxpayers other than Corporations.".

(g) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978, except that the amendment made by paragraph (1) of subsection (b) shall apply to sales and exchanges made after July 26, 1978, in taxable years ending after such date. 26 USC 55 note.

SEC. 422. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978". 26 USC 57 note.

SEC. 423. AMENDMENT TO DEFINITION OF FOREIGN SOURCE CAPITAL GAIN TAX PREFERENCES.

(a) General Rule.—Section 58(g)(2) (relating to capital gains and stock options) is amended by striking out the period at the end of the last sentence thereof, and inserting the following: "; except that, for purposes of subparagraph (B), preferential treatment shall be deemed not to be accorded to capital gain recognized on the receipt of property (other than money) in exchange for stock of a corporation which is engaged in the active conduct of a trade or business within one or more foreign countries or possessions if (i) such exchange is described in section 332, 351, 354, 355, 356, or 361, (ii) such exchange is made in the foreign country or possession in which such corporation's business is primarily carried on, (iii) such exchange is not subject to tax by such foreign country or possession because it is regarded under the laws of such country or possession as a transaction in which gain or loss is either not realized or not recognized, and (iv) such gain, if it had been realized and recognized under the laws of such country or possession, would not have been accorded preferential treatment and would have been subject to tax at a rate of at least 28 percent (30 percent if the exchange occurs before January 1, 1979). For purposes of computing the minimum tax, if any, which may be payable on a subsequent transaction involving any property received upon the exchange of stock described in the preceding sentence, the property received shall be treated as having the same basis in the taxpayer's hands immediately after such exchange as such stock had immediately before such exchange." 26 USC 58. 26 USC 332, 351, 354, 355, 356, 361.

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 58 note.

Subtitle C—Maximum Tax Provisions

SEC. 441. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF THE MAXIMUM TAX.

26 USC 1348.

(a) General Rule.—Subparagraph (b) of section 1348(b)(2) (relating to definition of personal service income) is amended by striking out "items of tax preference (as defined in section 57)" and inserting in lieu thereof "items of tax preference described in subsection (a) (other than paragraph (9)) of section 57".

26 USC 1348 note.

(b) Effective Date.—

(1) General rule.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after October 31, 1978.

(2) Transitional rules.—In the case of a taxable year which begins before November 1, 1978, and ends after October 31, 1978, the amendment made by subsection (a) shall apply with respect to so much of the net capital gain of the taxpayer for the taxable year as is attributable to sales or exchanges after October 31, 1978.

SEC. 442. DETERMINATION OF PERSONAL SERVICE INCOME FROM NON-SALARIED TRADE OR BUSINESS ACTIVITIES.

(a) In General.—Subparagraph (A) of section 1348(b)(1) (relating to personal service income) is amended by adding at the end thereof the following: "For purposes of this subparagraph, section 911(b) shall be applied without regard to the phrase ', not in excess of 30 percent of his share of net profits of such trade or business,'.".

26 USC 1348 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1978.

TITLE V—OTHER TAX PROVISION

Subtitle A—Administrative Provisions

SEC. 501. REPORTING REQUIREMENTS WITH RESPECT TO CHARGED TIPS.

26 USC 6001.

(a) Records.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by adding at the end thereof the following: "The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a)." 26 USC 6053.

26 USC 6041.

(b) Returns.—Section 6041 (relating to information at source) is amended by redesignating subsection (d) as subsection (c) and by adding at the end thereof the following new subsection:

26 USC 6053.

"(d) Section Does Not Apply to Certain Tips.—This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies."

26 USC 6001 note.

(c) Effective Date.—The amendments made by this section shall apply to payments made after December 31, 1978.

SEC. 502. EXTENSION OF OPTIONAL SMALL TAX CASE PROCEDURES AND EXPANSION OF AUTHORITY OF COMMISSIONERS OF TAX COURT.

(a) Extending the Optional Small Tax Case Procedures to Additional Taxpayers.—

(1) In general.—Subsection (a) of section 7463 (relating to small tax cases) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

26 USC 7463.

"(1) $5,000 for any one taxable year, in the case of the taxes imposed by subtitle A,

26 USC 1.

"(2) $5,000, in the case of the tax imposed by chapter 11, or

26 USC 2001 *et seq.*

"(3) $5,000 for any one calendar year, in the case of the tax imposed by chapter 12,".

26 USC 2501 *et seq.*

(2) Conforming amendments.—

(A) The heading of section 7463 is amended by striking out "$1,500" and inserting in lieu thereof "$5,000".

(B) the table of sections for part II of subchapter C of chapter 76 is amended by striking out "$1,500" in the item relating to section 7463 and inserting in lieu thereof "$5,000".

(b) Authority To Assign Small Tax Cases To Commissioners.—Section 7463 (relating to small tax cases) is amended by adding at the end thereof the following new subsection:

"(g) Commissioners.—The chief judge of the Tax Court may assign proceedings conducted under this section to be heard by the Commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by rule provide."

(c) Authority of Tax Court Commissioners To Administer Oaths, Procure Testimony, Etc.—Subsection (a) of section 7456 (relating to the administration of oaths and testimony) is amended—

26 USC 7456.

(1) by striking out "any judge of the Tax Court" each place it appears and inserting in lieu thereof "any judge or commissioner of the Tax Court"; and

(2) by striking out "by the judge" and inserting in lieu thereof "by the judge or commissioner".

(d) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 180 days after the date of the enactment of this Act.

26 USC 7463 note.

(2) Subsections (b) and (c).—The amendments made by subsection (b) and (c) shall take effect on the date of the enactment of this Act.

SEC. 503. DISCLOSURE OF RETURN INFORMATION TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.

(a) In General.—Paragraph (2) of section 6103(h) (relating to Department of Justice) is amended—

26 USC 6103.

(1) by striking out "A" after the heading, and inserting in lieu thereof "In a matter involving tax administration, a",

(2) by striking out "attorneys" after "open to inspection by or disclosure to", in paragraph (2) and inserting in lieu thereof "officers and employees",

(3) by inserting "any proceeding before a Federal grand jury or" before "preparation for any proceeding" in paragraph (2),

(4) by striking out "in a matter involving tax administration" after "or any Federal or State court".

(b) APPLICATION TO TAXPAYER.—

26 USC 6103.

(1) Section 6103(h)(2) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;".

(2) Section 6103(h)(4) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;".

SEC. 504. REFUND ADJUSTMENTS FOR AMOUNTS HELD UNDER CLAIM OF RIGHT.

26 USC 6411.

(a) IN GENERAL.—Section 6411 (relating to application for adjustment) is amended by adding at the end thereof the following new subsection:

"(d) TENTATIVE REFUND OF TAX UNDER CLAIM OF RIGHT ADJUSTMENT.—

"(1) APPLICATION.—A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

26 USC 1341.

"(A) be verified in the same manner as an application under subsection (a),

"(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

"(C) set forth in such detail and with such supporting data such regulations prescribe—

"(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

"(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

"(iii) the amount determined under section 1341(a)(5)(B),

"(iv) the amount of the overpayment determined under section 1341(b)(1); and

"(v) such other information as the Secretary may require.

"(2) ALLOWANCE OF ADJUSTMENTS.—Within a period of 90 days from the date on which an application is filed under paragraph (1), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs, whichever is later, the Secretary shall—

"(A) review the application,

"(B) determine the amount of the overpayment, and

"(C) apply, credit, or refund such overpayment in a manner similar to the manner provided in subsection (b).

"(3) CONSOLIDATED RETURNS.—The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) The heading for section 6411 is amended by inserting "AND REFUND" after "CARRYBACK". 26 USC 6411.

(B) The table of sections for subchapter B of chapter 65 is amended by inserting "and refund" after "carryback" in the item relating to section 6411.

(2) Paragraph (3) of section 6213(b) (relating to assessments arising out of tentative carryback adjustments) is amended— 26 USC 6213.

(A) by inserting "OR REFUND" after "CARRYBACK" in the heading; and

(B) by inserting "or the amount described in section 1341(b)(1)" after "carryback".

(3) Subsection (m) of section 6501 (relating to tentative carryback adjustment period) is amended by inserting "and refund" after "carryback" the first place it appears. 26 USC 6501.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tentative refund claims filed on and after the date of the enactment of this Act. 26 USC 6411 note.

Subtitle B—Estate and Gift Tax Provisions

SEC. 511. REDUCTION OF VALUE TAKEN INTO ACCOUNT FOR ESTATE TAX PURPOSES WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OF OTHER BUSINESS

(a) IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection: 26 USC 2040.

"(c) VALUE WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OR OTHER BUSINESS.—

"(1) IN GENERAL.—Notwithstanding subsections (a), in the case of an eligible joint interest in section 2040(c) property, the value included in the gross estate with respect to such interest by reason of this section shall be—

"(A) the value of such interest, reduced by

"(B) the sum of—

"(i) the section 2040(c) value of such interest, and

"(ii) the adjusted consideration furnished by the decedent's spouse.

"(2) LIMITATIONS.—

"(A) AT LEAST 50 PERCENT OF VALUE TO BE INCLUDED.—Paragraph (1) shall in no event result in the inclusion in the decedent's gross estate of less than 50 percent of the value of the eligible joint interest.

"(B) AGGREGATE REDUCTION.—The aggregate decrease in the value of the decedent's gross estate resulting from the application of this subsection shall not exceed $500,000.

"(3) ELIGIBLE JOINT INTEREST DEFINED.—For purposes of paragraph (1) the term 'eligible joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both, and

"(B) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants.

26 USC 2040.

"(4) SECTION 2040(C) PROPERTY DEFINED.—For purposes of paragraph (1), the term 'section 2040(c) property' means any interest in any real or tangible personal property which is devoted to use as a farm or used for farming purposes (within the meaning of paragraphs (4) and (5) of section 2032A(e)) or is used in any other trade or business.

26 USC 2032A.

"(5) SECTION 2040(C) VALUE.—For purposes of paragraph (1), the term 'section 2040(c) value' means—

"(A) the excess of the value of the eligible joint interest over the adjusted consideration furnished by the decedent, the decedent's spouse, or both, multiplied by

"(B) 2 percent for each taxable year in which the spouse materially participated in the operation of the farm or other trade or business but not to exceed 50 percent.

"(6) ADJUSTED CONSIDERATION.—For the purpose of this subsection, the term 'adjusted consideration' means—

"(A) the consideration furnished by the individual concerned (not taking into account any consideration in the form of income or gain from the business of which the section 2040(c) property is a part) determined under rules similar to the rules set forth in subsection (a), and

"(B) an amount equal to the amount of interest which the consideration referred to in subparagraph (A) would have earned over the period in which it was invested in the farm or other business if it had been earning interest throughout such period at 6 percent simple interest.

"(7) MATERIAL PARTICIPATION.—For purposes of paragraph (1), material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

26 USC 1402.

"(8) VALUE.—For purposes of this subsection, except where the context clearly indicates otherwise, the term 'value' means value determined without regard to this subsection.

(9) ELECTION TO HAVE SUBSECTION APPLY.—This subsection shall apply with respect to a joint interest only if the estate of the decedent elects to have this subsection apply to such interest. Such an election shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe."

26 USC 6075.
26 USC 2001.

(b) EFFECTIVE DATE.—The amendement made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1978.

26 USC 2040 note.

SEC. 512. TREATMENT OF CERTAIN INTERESTS HELD BY DECEDENT'S FAMILY FOR PURPOSES OF THE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX PROVIDED BY SECTION 6166.

(a) INTEREST HELD BY MEMBER OF DECEDENT'S FAMILY TREATED AS HELD BY DECEDENT.—Paragraph (2) of section 6166(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

26 USC 6166.

"(D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.—All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of section 267(c)(4)) shall be treated as owned by the decedent." 26 USC 267.

(b) Election for Purposes of the 20-Percent Requirements With Respect to Partnership Interests and Stock Which Is Not Readily Tradable.—Subsection (b) of section 6166 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

"(7) Partnership interests and stock which is not readily tradable.—

"(A) In general.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

"(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

"(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and 26 USC 6151.

"(iii) section 6601(j) (relating to 4-percent rate of interest) shall not apply. 26 USC 6601.

"(B) Non-readily-tradable stock defined.—For purposes of this paragraph, the term 'non-readily-tradable stock' means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market."

(c) Effective Date.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act. 26 USC 6166 note.

SEC. 513. SUBORDINATION OF SPECIAL LIENS FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.

(a) General Rule.—Subsection (d) of section 6325 (relating to subordination of lien) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph: 26 USC 6325.

"(3) in the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination." 26 USC 6324B.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976. 26 USC 6325 note.

SEC. 514. AMENDMENT OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(a) Charitable Lead Trusts and Charitable Remainder Trusts in the Case of Estate Tax.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or 26 USC 2055.

conformed on or before December 31, 1978, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1978 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (a) or (B) (as the case may be), a deduction shall nevertheless be allowed."

26 USC 2055 note.

(b) Charitable Lead Trusts and Charitable Remainder Trusts in the Case of Income and Gift Taxes.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

26 USC 170, 2522.

SEC. 515. DEFERRAL OF CARRYOVER BASIS RULES.

The following provisions are each amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1979":

26 USC 1014.

(1) the caption and text of section 1014(d) (relating to basis of property acquired from the decedent);

26 USC 1016.

(2) section 1016(a)(23) (relating to adjustments to basis);

26 USC 1023.

(3) the heading of section 1023 (relating to carryover basis for certain property);

(4) section 1023(a) (relating to general rule for carryover basis);

(5) the item relating to section 1023 in the table of sections for part II of subchapter O of chapter I; and

26 USC 1023 note.

(6) section 2005(f)(1) of the Tax Reform Act of 1976 (relating to effective dates for carryover basis provisions).

Subtitle C—Other Excise Tax Provisions

SEC. 520. REDUCTION OF ADMINISTRATION TAX ON PRIVATE FOUNDATIONS.

26 USC 4940.

(a) In General.—Subsection (a) of section 4940 (relating to excise tax based on investment income) is amended by striking out "4 percent" and inserting in lieu thereof "2 percent".

26 USC 4940 note.

(b) Effective Date.—The amendment made by the first section of this Act shall apply to taxable years beginning after September 30, 1977.

SEC. 521. EXCISE TAX ON CERTAIN GAMING DEVICES.

26 USC 4464.

(a) Increase in Credit for State Tax.—Paragraph (2) of section 4464(b) (relating to limitations on the credit for State-imposed taxes) is amended by striking out "80 percent" in the heading and text thereof and inserting in lieu thereof "95 percent".

Repeal. 26 USC 4461–4464.

(b) Repeal of Occupational Tax.—Subchapter B of chapter 36 is repealed.

(c) Conforming Amendments.—

26 USC 4402.

(1) Section 4402(2) (relating to exemptions from taxes on wagering) is amended to read as follows:

26 USC 4462.

"(2) Coin-operated devices.—On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or".

26 USC 4901.

(2) Subsection (a) of section 4901 (relating to payment of occupational tax) is amended by striking out "or 4461(a)(1) (coin-operated gaming devices)".

(d) Effective Dates.— 26 USC 4464 note.

(1) The amendment made by subsection (a) shall apply with respect to years ending June 30, 1979, and June 30, 1980.

(2) The amendments made by subsections (b) and (c) shall apply with respect to years beginning after June 30, 1980.

SEC. 522. TREATMENT OF CERTAIN PRIVATE FOUNDATIONS FOR PURPOSES OF SECTION 4942.

(a) General Rule.—Subsection (j) of section 4942 (relating to other definitions) is amended by adding at the end thereof the following new paragraph: 26 USC 4942.

"(6) Certain elderly care facilities.—For purposes of this section (but no other provisions of this title), the term 'operating foundation' includes any organization which, on May 26, 1969, and at all times thereafter before the close of the taxable year, operated and maintained as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children but only if such organization meets the requirements of paragraph (3)(B)(ii)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969. 26 USC 4942 note.

Subtitle D—Income Tax Provisions

SEC. 530. CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.

(a) Termination of Certain Employment Tax Liability for Periods Before 1980.— 26 USC 3401 note.

(1) In general.—If—

(A) for purposes of employment taxes, the taxpayer did not treat an individual as an employee for any period ending before January 1, 1980, and

(B) in the case of periods after December 31, 1978, all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period are filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee,

then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(2) Statutory standards providing one method of satisfying the requirements of paragraph (1).—For purposes of paragraph (1), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(3) Consistency required in the case of 1979 tax treatment.—Paragraph (1) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(4) Refund or credit of overpayment.—If refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) is not barred on the date of the enactment of this Act by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) shall not expire before the date 1 year after the date of the enactment of this Act.

(b) Prohibition Against Regulations and Rulings on Employment Status.—No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act and before January 1, 1980 (or, if earlier, the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes) by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

(c) Definitions.—For purposes of this section—

(1) Employment tax.—The term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1954.

26 USC 3101.

(2) Employment status.—The term "employment status" means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

SEC. 531. CERTAIN ORIGINAL STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

26 USC 216.

(a) In General.—Subsection (b) of section 216 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by adding at the end thereof the following new paragraph:

"(6) Stock owned by person from whom the corporation acquired its property.—

"(A) In general.—If the original seller acquires any stock of the corporation—

"(i) from the corporation by purchase, or

"(ii) by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in such stock held by the original seller,

the original seller shall be treated as a tenant-stockholder for a period not to exceed 3 years from the date of acquisition.

"(B) Original seller must have right to occupy apartment or house.—Subparagraph (A) shall apply with respect to any acquisition of stock only if, together with such acquisition, the original seller acquires the right to occupy an apartment or house to which such stock is appurtenant.

For purposes of the preceding sentence, there shall not be taken into account the fact that, by agreement with the corporation, the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation.

"(C) ORIGINAL SELLER DEFINED.—For purposes of this paragraph, the term 'original seller' means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act. 26 USC 216 note.

Subtitle E—Other Income Tax Provisions

SEC. 540. DEPOSITS IN CERTAIN BRANCHES OF PUERTO RICAN SAVINGS AND LOAN ASSOCIATIONS.

(a) IN GENERAL.—Subparagraph (F) of section 861(a)(1) (relating to income from sources within the United States) is amended to read as follows: 26 USC 861.

"(F) interest—

"(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

"(ii) on amounts satisfying the requirements of paragraph (2) of subsection (c) which are paid by a foreign branch of a domestic corporation or a domestic partnership,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 861 note.

SEC. 541. TAXATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT CORPORATIONS.

Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding three new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation established pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with exploration on such lands for oil, gas, or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This subsection shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

43 USC 1611, 1613.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation."

"(i) **Personal Holding Company Act Exemption.**—No Corporation created pursuant to the Alaska Native Claims Settlement Act shall be considered to be a personal holding company within the meaning of section 542(a) of the Internal Revenue Code of 1954 prior to January 1, 1992."

26 USC 542.

SEC. 542. REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION.

26 USC 1033.

(a) **In General.**—Section 1033 (relating to involuntary conversions) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) **Replacement of Livestock With Other Farm Property Where There Has Been Environmental Contamination.**—For purposes of subsection (a), if, because of soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted."

26 USC 1033 note.

(b) **Effective Date.**—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1974.

SEC. 543. CERTAIN PAYMENTS NOT INCLUDED IN GROSS INCOME.

(a) **In General.**—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 126 as 127 and by inserting immediately after section 125 the following new section: 26 USC 127.

"SEC. 126. CERTAIN COST-SHARING PAYMENTS. 26 USC 126.

"(a) GENERAL RULE.—Gross income does not include the excludable portion of payments received under—

"(1) The rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

"(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

"(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

"(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978. *Ante*, p. 433.

"(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

"(6) The great plains conservation program authorized by section 16 of the Soil Conservation and Domestic Policy Act (16 U.S.C. 590p(b)).

"(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.).

"(8) The forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103). *Ante*, p. 367.

"(9) Any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury to be substantially similar to the type of programs described in paragraphs (1) through (8).

"(10) Any State program under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

"(b) EXCLUDABLE PORTION.—For purposes of this section, the term 'excludable portion' means that portion (or all) of a payment made to any person under any program described in subsection (a) which—

"(1) is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and

"(2) is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property.

"(c) APPLICATION WITH OTHER SECTIONS.—No deduction or credit allowable under any other provision of this chapter shall be allowed with respect to any expenditure made with the use of payments described in subsection (a) or with respect to any property acquired with any payment described in subsection (a) (to the extent that the basis is allocable to the use of such payments). Notwithstanding any provision of section 1016 to the contrary, no adjustment to basis shall be made with respect to property acquired through the use of such payments, to the extent that such adjustment would reflect the amount of such payment." 26 USC 1016.

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 126. Certain cost-sharing payments.
"Sec. 127. Cross references to other Acts."

(c) Recapture of Gain From Disposition of Property.—

(1) Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following:

26 USC 1255.

"SEC. 1255. GAIN FROM DISPOSITION OF SECTION 126 PROPERTY.

"(a) General Rule.—

Ante, p. 2889.

"(1) Ordinary income.—Except as otherwise provided in this section, if section 126 property is disposed of, the lower of—

"(A) the applicable percentage of the aggregate payments, with respect to such property, excluded from gross income under section 126, or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such section 126 property (in the case of any other disposition), over

"(ii) the adjusted basis of such property shall be treated as ordinary income.

"(2) Section 126 property.—For purposes of this section, 'section 126 property' means any property acquired, improved, or otherwise modified by the application of payments excluded from gross income under section 126.

"(3) Applicable percentage.—For purposes of this section, if section 126 property is disposed of less than 10 years after the date of receipt of payments excluded from gross income under section 126, the applicable percentage is 100 percent. If section 126 property is disposed of more than 10 years after such date, the applicable percentage is 100 percent reduced (but not below zero) by 10 percent for each year or part thereof in excess of 10 years such property was held after the date of receipt of the payments.

"(b) Special Rules.—Under regulations prescribed by the Secretary—

26 USC 1245.

"(1) rules similar to the rules applicable under section 1245 shall be applied for purposes of this section, and

"(2) amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(2) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1255. Gain from disposition of section 126 property."

26 USC 126 note.

(d) Effective Date.—The amendments made by this section shall apply with respect to grants made under the programs after September 30, 1979.

Subtitle F—Studies

SEC. 551. STUDY OF SIMPLIFICATION OF TAX RETURNS.

26 USC 6011 note.

(a) Study.—The Secretary of the Treasury shall conduct a full and complete study and investigation with respect to—

(1) provisions of the Internal Revenue Code of 1954 which, due to their complexity, may hamper the ability of individuals to prepare accurate and complete Federal income tax returns, and

(2) methods of simplifying Federal income tax return forms and instructions accompanying such forms.

(b) Task Force.—

(1) In general.—The Secretary of the Treasury shall establish a task force to assist him in the conduct of the study and investigation under subsection (a).

(2) Reports of task force.—The task force shall report from time to time on its progress directly to the Secretary and shall submit a final report to the Secretary which includes its findings with respect to such study and investigation and any recommendations with respect thereto. Such final report shall be submitted by such time as is necessary to enable the Secretary to file the report called for in subsection (c) of this section.

(3) Authority to hire.—The Secretary is authorized to appoint such employees, not in excess of 10, as may be necessary to carry out the functions of the task force without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, except that such employees shall not be paid at a rate in excess of the annual rate of pay under grade GS-18 of the General Schedule under section 5332 of such title 5.

5 USC 5101, 5331 *et seq.*

(c) Report.—The Secretary, after studying the reports and recommendations of the task force under subsection (b), shall, not later than 2 years after the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report on the study and investigation conducted under this section, together with such recommendations for legislation as he finds necessary.

SEC. 552. STUDY OF TAX INCENTIVES FOR EXPENDITURES REQUIRED BY OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND MINING HEALTH AND SAFETY ADMINISTRATION.

(a) Study.—The Secretary of the Treasury shall make a full and complete study and investigation with respect to the appropriateness of providing additional tax incentives for expenditures required by the Occupational Safety and Health Act (OSHA) and the Mining Safety and Health Administration (MSHA) of the Department of Labor.

26 USC 7801.

29 USC 651 note.

(b) Report.—Before April 1, 1979, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations for legislation.

SEC. 553. STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES.

(a) Study.—The Secretary of the Treasury shall make a full and complete study and analysis of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations.

26 USC 7801 note.

(b) Report.—The Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report of its study, together with its recommendations, no later than 6 months from the date of enactment of this Act.

26 USC 50A note.

SEC. 554. REPORT ON EFFECTIVENESS OF JOBS CREDIT.

(a) **Report on Targeted Jobs Credit.**—Not later than June 30, 1981, the Secretary of the Treasury and the Secretary of Labor shall jointly submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the effectiveness of the targeted jobs credit provided by the amendments made by this section in improving the employment situation of the targeted groups, and

(2) the types of employers claiming such credit.

(b) **General Jobs Credit.**—The report required under paragraph (1) shall also include an evaluation of—

Ante, p. 2834.

(1) the effectiveness of the general jobs credit provided by section 44B of the Internal Revenue Code of 1954 for 1977 and 1978 in stimulating employment and enhancing economic growth, and

(2) the types of employers claiming such credit.

SEC. 555. STUDY OF EFFECTS OF CHANGES IN THE TAX TREATMENT OF CAPITAL GAINS ON STIMULATING INVESTMENT AND ECONOMIC GROWTH.

26 USC 1201 note.

Not later than September 30, 1981, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the effectiveness of the changes made by this title in the tax treatment of capital gains of individuals and corporations in stimulating investment and increasing the rate of economic growth. The report shall also include an analysis of the effects these changes had on employment growth and on income tax revenues.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

SEC. 601. ESTABLISHMENT AND TAXATION OF GENERAL STOCK OWNERSHIP CORPORATIONS AND THEIR SHAREHOLDERS.

(a) **In General.**—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391. Definitions.
"Sec. 1392. Election by general stock ownership corporation.
"Sec. 1393. Corporation taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of electing general stock ownership corporations.
"Sec. 1395. Adjustments to basis of stock of shareholders.
"Sec. 1396. Minimum distribution.
"Sec. 1397. Special rules applicable to earnings and profits of an electing general stock ownership plan.

26 USC 1391.

"SEC. 1391. DEFINITIONS.

"(a) **General Stock Ownership Corporation.**—For purposes of this subchapter, the term 'general stock ownership corporation' (hereinafter referred to as a 'GSOC') means a domestic corporation which—

"(1) is not a member of an affiliated group (as defined in section 1504), and

26 USC 1504.

"(2) is chartered and organized after December 31, 1978, and before January 1, 1984;

"(3) is chartered by an act of a State legislature or as a result of a State-wide referendum;

"(4) has a charter providing—

"(A) for the issuance of only 1 class of stocks,

"(B) for the issuance of shares only to eligible individuals (as defined in subsection (c));

"(C) for the issuance of at least one share to each eligible individual, unless such eligible individual elects within one year after the date of issuance not to receive such share;

"(D) that no share of stock shall be transferable—

"(i) by a shareholder other than by will or the laws of descent and distribution until after the expiration of 5 years from the date such stock is issued by the GSOC except where the shareholder ceases to be a resident of the State;

"(ii) to any person other than a resident individual of the chartering State;

"(iii) to any individual who, after the transfer, would own more than 10 shares of the GSOC;

"(E) that such corporation shall qualify as a GSOC under the Internal Revenue Code;

"(5) is empowered to invest in properties (but not in properties acquired by it or for its benefit through the right of eminent domain).

For purposes of this subsection, section 1504(a) shall be applied by substituting '20 percent' for '80 percent' wherever it appears.

"(b) Electing GSOC.—For purposes of this subchapter, the term 'electing GSOC' means a GSOC which files an election under section 1392 which, under section 1392, is in effect for such taxable year.

"(c) Eligible Individuals.—For purposes of subsection (a), the term 'eligible individual' means an individual who is, as of a date specified in the State's enabling legislation for the GSOC, a resident of the chartering State and who remains a resident of such State between that date and the date of issuance.

"(d) Treated as Private Corporation.—For purposes of this title, a GSOC shall be treated as a private corporation and not as a governmental unit.

"(e) Study of General Stock Ownership Corporations.—The staff of the Joint Committee on Taxation shall prepare a report on the operation and effects of this subchapter relating to GSOC's. An interim report shall be filed within two years after the first GSOC is formed and a final report shall be filed by September 30, 1983.

"SEC. 1392. ELECTION BY GSOC.

26 USC 1392.

"(a) Eligibility.—Except as provided in section 1393, any GSOC may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter.

26 USC 1393.

"(b) Effect.—If a GSOC makes an election under subsection (a) then—

"(1) with respect to the taxable years of the GSOC for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of section 1396 shall apply to such GSOC, and *Post*, p. 2895.

"(2) with respect to each such taxable year, the provisions of sections 1393, 1394, and 1395 shall apply to the shareholders of such GSOC. *Infra.* *Post*, p. 2895.

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a GSOC at such time and in such manner as the Secretary shall prescribe by regulations.

"(d) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the GSOC for which it is made and for all succeeding taxable years of the GSOC, unless it is terminated under subsection (f).

"(e) TAXABLE YEAR.—The taxable year of a GSOC shall end on October 31 unless the Secretary consents to a different taxable year.".

"(f) TERMINATION.—The election of a GSOC under subsection (a) shall terminate for any taxable year during which it ceases to be a GSOC and for all succeeding taxable years. The election of a GSOC under subsection (a) may be terminated at any other time with the consent of the Secretary, effective for the first taxable year with respect to which the Secretary consents and for all succeeding taxable years.

26 USC 1393.

"SEC. 1393. GSOC TAXABLE INCOME TAXED TO SHAREHOLDERS.

"(a) GENERAL RULE.—The taxable income of an electing GSOC for any taxable year shall be included in the gross income of the shareholders of such GSOC in the manner and to the extent set forth in this subsection.

"(1) AMOUNT INCLUDED IN GROSS INCOME.—Each shareholder of an electing GSOC on any day of a taxable year of such GSOC shall include in his gross income for the taxable year with or within which the taxable year of the GSOC ends the amount he would have received if, on each day of such taxable year, there had been distributed pro rata to its shareholders by such GSOC an amount equal to the taxable income of the GSOC for its taxable year divided by the number of days in the GSOC's taxable year.

"(2) TAXABLE INCOME DEFINED.—For purposes of this section, the term 'taxable income' of a GSOC shall be determined without regard to the deductions allowed by part VIII of subchapter B (other than deductions allowed by section 248, relating to organizational expenditures). 26 USC 248.

"(b) SPECIAL RULE FOR INVESTMENT CREDIT.—The investment credit of an electing GSOC for any taxable year shall be allowed as a credit to the shareholders of such corporation in the manner and to the extent set forth in this subsection.

"(1) CREDIT.—There shall be apportioned among the shareholders a credit equal to the amount each shareholder would have received if, on each day of such taxable year, there had been distributed pro rata to the shareholders the electing GSOC's net investment credit divided by the number of days in the GSOC's taxable year.

"(2) NET INVESTMENT CREDIT.—For purposes of this paragraph the term 'net investment credit' means the investment credit of the electing GSOC for its taxable year less any tax from recomputing a prior year's investment credit in accordance with section 47. 26 USC 47.

"(3) RECAPTURE.—There shall be apportioned among the shareholders of a GSOC, in the manner described in paragraph (1), an additional tax equal to the excess of any tax resulting from recomputing a prior year's investment credit in accordance with section 47 over the investment credit of the GSOC for its taxable year. 26 USC 47.

"SEC. 1394. RULES APPLICABLE TO DISTRIBUTIONS OF AN ELECTING GSOCs.

26 USC 1394.

"(a) **Shareholder Income Account.**—An electing GSOC shall establish and maintain a shareholder income account which account shall be—

"(1) increased at the close of the GSOC's taxable year by an amount equal to the GSOC's taxable income for such year, and

"(2) decreased, but not below zero, on the first day of the GSOC's taxable year by the amount of any GSOC distribution to the shareholders of such GSOC made or treated as made during the prior taxable year.

"(b) **Taxation of Distributions.**—Distributions by an electing GSOC shall be treated as—

"(1) a distribution of previously taxed income to the extent such distribution does not exceed the balance of the shareholder income account as of the close of the taxable year of the GSOC, and

"(2) a distribution to which section 301(a) applies but only to the extent such distribution exceeds the balance of the shareholder income account as of the close of the taxable year of the GSOC. 26 USC 301.

"(c) **Distributions Not Treated as a Dividend.**—Any amounts includible in the gross income of any individual by reason of ownership of stock in a GSOC shall not be considered as a dividend for purposes of section 116. 26 USC 116.

"(d) **Regulations.**—The Secretary shall have authority to prescribe by regulation, rules for treatment of distributions in respect of shares of stock of the GSOC that have been transferred during the taxable year.".

"SEC. 1395. ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS.

26 USC 1395.

"The basis of a shareholder's stock in an electing GSOC shall be increased by the amount includible in the gross income of such shareholder under section 1393, but only to the extent to which such amount is actually included in the gross income of such shareholder. *Ante*, p. 2894.

"SEC. 1396. MINIMUM DISTRIBUTIONS.

26 USC 1396.

"(a) **General Rule.**—A GSOC shall distribute at least 90 percent of its taxable income for any taxable year by January 31 following the close of such taxable year. Any distribution made on or before January 31 shall be treated as made as of the close of the preceding taxable year.

"(b) **Imposition of Tax in Case of Failure To Make Minimum Distributions.**—If a GSOC fails to make the minimum distribution requirements described in subsection (a), there is hereby imposed a tax equal to 20 percent of the excess of the amount required to be distributed over the amount actually distributed.

"SEC. 1397. SPECIAL RULES APPLICABLE TO AN ELECTING GSOC.

26 USC 1397.

"(a) **General Rule.**—The current earnings and profits of an electing GSOC as of the close of its taxable year shall not include the amount of taxable income for such year which is required to be included in the gross income of the shareholders of such GSOC under section 1393(a).

Ante, p. 2894.

"(b) Special Rule for Audit Adjustments.—

"(1) Taxable income.—Taxable income of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to taxable income for a prior taxable year.

"(2) Investment credit.—The net investment credit of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to the net investment credit for a prior taxable year.

"(3) Method of making adjustments.—An electing GSOC shall include in gross income for the year of an adjustment the amount described in paragraph (1) and shall take into account the adjustment described in paragraph (2), and shall be liable for payment of interest in the amount that would have been payable by the GSOC under section 6601 (relating to interest on underpayment, nonpayment or extensions of time for payment, of tax) or receivable by the GSOC under section 6611 (relating to interest on overpayments) if such GSOC had been a corporation other than an electing GSOC."

26 USC 6601.
26 USC 6611.

(b) Technical Amendments.—

(1) Net operating loss deduction.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

26 USC 172.

"(H) In the case of an electing GSOC which has a net operating loss for any taxable year such loss shall not be a net operating loss carryback to any taxable year preceding the year of such loss, but shall be a net operating loss carryover to each of the 10 taxable years following the year of such loss."

26 USC 3402.

(2) Income tax collected at source.—Section 3402 (relating to income collected at source) is amended by adding at the end thereof the following new subsection:

"(r) Extension of Withholding to GSOC Distributions.—

"(1) General rule.—An electing GSOC making any distribution to its shareholders shall deduct and withhold from such payment a tax in an amount equal to 25 percent of such payment.

"(2) Coordination with other sections.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, distributions of an electing GSOC to any shareholder which are subject to withholding shall be treated as if they were wages paid by an employer to an employee."

26 USC 3403, 3404.
26 USC 7205.

26 USC 1016.

(3) Adjustments to basis.—Section 1016(a) (relating to adjustments of basis) is amended by redesignating paragraph (23) as (22) and by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 1395 in the case of stock of shareholders of a general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392; and".

Ante, p. 2895.
Ante, p. 2892.
Ante, p. 2893.

26 USC 6031.

(4) Return of general stock ownership corporation.—Subpart A of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

"SEC. 6039B. RETURN OF GENERAL STOCK OWNERSHIP CORPORATION. 26 USC 6039B.

"Every general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392 shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the amount of investment credit or additional tax, as the case may be, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purpose of carrying out the provisions of subchapter U of chapter 1, as the Secretary may by regulation prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012. Every GSOC shall file an annual report with the Secretary summarizing its operations for such year." 26 USC 1391, 1392. 26 USC 6501 *et seq.* 26 USC 6012.

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by adding at the end thereof the following:

"SUBCHAPTER U.—General stock ownership plans."

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6039B. Return of general stock ownership corporation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984. 26 USC 1391 note.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

SEC. 701. TECHNICAL AMENDMENTS TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).— 26 USC 37.

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (c) of section 37 (relating to election of prior law with respect to public retirement system income) is amended—

(A) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Community property laws not applicable.—In the case of a joint return, this subsection shall be applied without regard to community property laws.",

(B) by striking out "paragraph (8)(A)" in paragraph (4)(B) and inserting in lieu thereof "paragraph (9)(A)"; and

(C) by striking out "paragraph (8)(B)" in paragraph (5)(B) and inserting in lieu thereof "paragraph (9)(B)".

26 USC 37 note. (4) Effective dates.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1977.

(b) Amendments Relating to the Minimum Tax.—

26 USC 57. (1) Special rules for minimum tax in the case of subchapters corporations and personal holding companies.—

(A) Paragraph (1) of section 57(a) (relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

26 USC 58. (2) Division of $10,000 amount among members of controlled groups.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

26 USC 1563. 26 USC 56. "(b) Members of Controlled Groups.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

26 USC 57. (3) Computation of adjusted itemized deductions in the case of estates and trusts.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

"(2) Special rules for estates and trusts.—

"(A) In general.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

26 USC 642. "(ii) the deduction for personal exemption provided by section 642(b),

26 USC 165. "(iii) the deduction for casualty losses described in section 165(c)(3),

26 USC 651. 26 USC 661, 691. "(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

26 USC 642. 26 USC 662. "(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trusts ends,

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c), 26 USC 642.

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes of this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income:

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), 26 USC 170.

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5),

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1977, and

"(v) deductions allowable to a trust, all of the income interest of which is devoted solely to one or more of the purposes described in section 170(c)(2)(B), which are attributable to transfers pursuant to a will or pursuant to an inter vivos trust in which the grantor had the power to revoke at the date of his death."

(4) SECTION 691(c) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph: 26 USC 57.

"(E) the deduction allowable under section 691(c),". 26 USC 691.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976. 26 USC 57 note. 26 USC 301.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph: 26 USC 105.

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) Application of paragraphs (2) and (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) Determination of marital status.—For purposes of this subsection, marital status shall be determined under section 143(a).

26 USC 143.

"(D) Joint return defined.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

26 USC 6013.

26 USC 105 note.

(2) Conforming amendments.—

26 USC 505.

26 USC 105.

(A) Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

26 USC 105 note.

26 USC 105.

(B) Subsections (c) and (e)(1) of section 301 of the Tax Reduction and Simplification Act of 1977 (relating to effective date of changes in the exclusion for sick pay) are each amended by striking out "section 105(d)(7)" and inserting in lieu thereof "section 105(d)(6)".

26 USC 105 note.

(3) Effective date.—

26 USC 105.

26 USC 505.

(A) The amendments made by paragraphs (1) and (2)(A) shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

26 USC 105 notes.

(B) The amendments made by paragraph (2)(B) shall take effect as if included in section 301 of the Tax Reduction and Simplification Act of 1977.

(d) Net Operating Losses.—

26 USC 172.

(1) Amendment of section 172(b)(1)(b).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

26 USC 172 note.

(2) Effective date.—The amendment made by paragraph (1) shall apply to losses incurred in taxable years ending after December 31, 1975.

26 USC 189 note.

26 USC 201.

(e) Effective Date for Fiscal Year Taxpayers for Construction Period Interest and Taxes.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,".

(f) Clarification of Provisions Providing Tax Incentives To Encourage the Preservation of Historic Structures.—

26 USC 191.

(1) Definition of certified historic structures.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

26 USC 167.

"(1) Certified historic structure.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

"(A) is listed in the National Register, or

"(B) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows: 26 USC 191.

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190". 26 USC 1250.

(D) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by inserting "or 191" after "167(k)". 26 USC 57.

(E) Paragraph (4) of section 1250(b) (relating to definition of additional depreciation) is amended—

(i) by inserting "or amortization" after "depreciation" the second and third places it appears, and

(ii) by inserting "or 191" after "167(k)" each place it appears.

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—Subsection (n) of section 167 is amended to read as follows:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.— 26 USC 167.

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

“(A) subsections (b), (j), (k), and (l) shall not apply, and

“(B) the term ‘reasonable allowance’ as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

“(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

“(A) to personal property, and

“(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if—

“(i) such structure was not a certified historic structure,

“(ii) the Secretary of the Interior certified to the Secretary that such structure is not of historic significance to the district, and

“(iii) if the certification referred to in clause (ii) occurs after the beginning of the demolition or substantial alteration of such structure, the taxpayer certifies to the Secretary that, at the beginning of such demolition or substantial alteration, he in good faith was not aware of the requirements of clause (ii).

“(3) DEFINITIONS.—For purposes of this subsection, the terms ‘certified historic structure’, ‘registered historic district’, and ‘certified rehabilitation’ have the respective meanings given such terms by section 191(d).”

26 USC 191.

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

26 USC 280B.
26 USC 191.

“(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified that such structure is not a certified historic structure, and that such structure is not of historic significance to the district, and if such certification occurs after the beginning of the demolition of such structure, the taxpayer has certified to the Secretary that, at the time of such demolition, he in good faith was not aware of the certification requirement by the Secretary of the Interior.”

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

26 USC 167.
26 USC 191.

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting “(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)” after “substantially rehabilitated historic property”.

26 USC 167.
26 USC 191.

(B) Paragraph (2) of section 167(o) is amended by striking out “section 191(d)(3)” and inserting in lieu thereof “section 191(d)(4)”.

26 USC 191.

(7) AMORTIZATION ALLOWABLE TO PERSONS WITH CERTAIN LEASE INTERESTS.—Section 191(f) (relating to treatment of life tenants and remaindermen) is amended to read as follows:

“(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

"(1) Life tenant and remainderman.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(2) Certain lessees.—

"(A) In general.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

"(B) Amortizable basis.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

"(C) Limitation.—Subparagraph (A) shall apply only if on the date of the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

"(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

"(ii) for not less than 30 years.".

(8) Effective date.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976. 26 USC 191 note. 26 USC 191.

(g) Foreign Conventions.—

(1) Deductions not disallowed to employer where employee includes amounts in gross income.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended to read as follows: 26 USC 274.

"(D) Subsection to apply to employer as well as to traveler.—

"(i) Except as provided in clause (ii), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual. 26 USC 162, 212.

"(ii) This subsection shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includible in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included." 26 USC 6031 *et seq.*

(2) Individuals residing in foreign countries.—Section 274(h)(6) is amended by adding at the end thereof the following new subparagraph: 26 USC 274.

"(E) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—For purposes of this subsection, in the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he was a bona fide resident of a foreign country at the time that he attended a convention in such foreign country, such individual's attendance at such convention shall not be considered as attendance at a foreign convention.".

26 USC 274. (3) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

26 USC 274 note. (4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) RENTAL OF FORMER PRINCIPAL RESIDENCE.—

26 USC 280A. (1) IN GENERAL.—Subsection (d) of section 280A (relating to use of residence for personal purposes) is amended by adding at the end thereof the following new paragraph:

"(3) RENTAL OF PRINCIPAL RESIDENCE.—

"(A) IN GENERAL.—For purposes of applying subsection (c)(5) to deductions allocable to a qualified rental period, a taxpayer shall not be considered to have used a dwelling unit for personal purposes for any day during the taxable year which occurs before or after a qualified rental period described in subparagraph (B)(i), or before a qualified rental period described in subparagraph (B)(ii), if with respect to such day such unit constitutes the principal residence (within the meaning of section 1034) of the taxpayer. 26 USC 1034.

"(B) QUALIFIED RENTAL PERIOD.—For purposes of subparagraph (A), the term 'qualified rental period' means a consecutive period of—

"(i) 12 or more months which begins or ends in such taxable year, or

"(ii) less than 12 months which begins in such taxable year and at the end of which such dwelling unit is sold or exchanged, and

for which such unit is rented to a person other than a member of the family (as defined in section 267(c)(4)) of the taxpayer, or is held for rental, at a fair rental." 26 USC 267.

26 USC 280A note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 280A of the Internal Revenue Code of 1954, as such provision was added to such Code by section 601(a) of the Tax Reform Act of 1976. 26 USC 280A. 26 USC 601.

26 USC 337. (i) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the 'selling corporation') if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and "(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies. 26 USC 333.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporation' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation." 26 USC 1504.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975. 26 USC 337 note.

(j) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).— 26 USC 368.

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company 26 USC 267.

shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3)."

26 USC 368 note.

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraphs (B) and (C), the amendments made by paragraph (1) shall apply as if included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 2131(a) of the Tax Reform Act of 1976. 26 USC 368.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(C) Clause (vii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to transfers made after September 26, 1977.

(k) AT RISK PROVISIONS.—

26 USC 465 note.

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

26 USC 465.

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

26 USC 465 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(l) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

26 USC 447.

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph (3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining taxable years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

26 USC 447 note.

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

26 USC 464.

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

26 USC 447.

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979,

then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change. 26 USC 481.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 464(c)(2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu thereof "(or a spouse of any such member)".

26 USC 464.
26 USC 267.

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections.

26 USC 447 note.
26 USC 447, 464.

(m) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

26 USC 189.

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542)," ; and

26 USC 1371.
26 USC 542.

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

26 USC 552.

(2) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended—

26 USC 280.

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976.

26 USC 189 note.
26 USC 189.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976.

26 USC 280 note.

(n) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominium management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences".

26 USC 528.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1973.

26 USC 528 note.

(o) DEFINITION OF PERSONAL HOLDING COMPANY.—

26 USC 542 note.
26 USC 542.

(1) In general.—The last sentence of section 542(a)(2) of the Internal Revenue Code of 1954 (relating to stock ownership requirement) shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

26 USC 542 note.

(2) Effective date.—The provisions of paragraph (1) shall apply with respect to taxable years beginning after December 31, 1976.

(p) Special Rule for Gain on Property Transferred to Trust at Less Than Fair Market Value.—

(1) Additional tax to apply only to recognized gains.—

26 USC 644.

(A) In general.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) Special rule for substituted basis property.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) Special Rules.—

"(1) Short sales.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(2) Substituted basis property.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) Treatment of net operating losses, capital losses, etc., which may affect transferor's tax in other years.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) Technical amendment.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.—Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof. 26 USC 644 note.

(5) EFFECTIVE DATES.— 26 USC 644 note.

(A) Except as provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(q) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) SPECIAL RULES FOR FOREIGN TRUST.—

(A) Subsection (d) of section 665 is amended to read as follows: 26 USC 665.

"(d) TAXES IMPOSED ON THE TRUST.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxes imposed on the trust' means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart or subpart A of part IV of subchapter A) and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) and (c) or 669 (d) and (e) to any beneficiary. 26 USC 666, 669.

"(2) FOREIGN TRUSTS.—In the case of any foreign trust, the term 'taxes imposed on the trust' includes the amount, reduced as provided in the last sentence of paragraph (1), of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable."

(B) Section 667 is amended by adding at the end thereof the following new subsection: 26 USC 667.

"(d) SPECIAL RULES FOR FOREIGN TRUST.—

"(1) FOREIGN TAX DEEMED PAID BY BENEFICIARY.—

"(A) IN GENERAL.—In determining the increase in tax under subsection (b)(1)(D) for any computation year, the taxes described in section 665(d)(2) which are deemed distributed under section 666 (b) or (c) and added under subsection (b)(1)(C) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subsection (b)(1)(D).

"(B) DEDUCTION IN LIEU OF CREDIT.—If the beneficiary did not choose the benefits of subpart A of part III of subchapter N with respect to the computation year, the beneficiary may in lieu of treating the amounts described in subparagraph (A) (without regard to subparagraph (C)) as a credit may treat such amounts as a deduction in computing the beneficiary's taxable income under subsection (b)(1)(C) for the computation year.

"(C) LIMITATION ON CREDIT; RETENTION OF CHARACTER.—

"(i) LIMITATION ON CREDIT.—For purposes of determining under subparagraph (A) the amount treated as a credit for any computation year, the limitations under subpart A of part III of subchapter N shall be applied separately with respect to amounts added under subsection (b)(1)(C) to the taxable income of the beneficiary for such computation year. For purposes of computing the increase in tax under subsection (b)(1)(D) for any computation year for which the beneficiary did not choose the benefits of subpart A of part III of subchapter N, the beneficiary shall be treated as having chosen such benefits for such computation year.

"(ii) RETENTION OF CHARACTER.—The items of income, deduction, and credit of the Trust shall retain their character (subject to the application of section 904(f)(5)) to the extent necessary to apply this paragraph. 26 USC 904.

"(D) COMPUTATION YEAR.—For purposes of this paragraph, the term 'computation year' means any of the three taxable years remaining after application of subsection (b)(1)(B).".

26 USC 667. (C) The last sentence of section 667(b)(1) is amended by inserting "(other than the amount of taxes described in section 665(d)(2))" after "taxes". *Ante*, p. 2909.

26 USC 904. (2) RECAPTURE OF OVERALL FOREIGN LOSS.—Section 904(f) is amended by adding at the end thereof the following new paragraph:

"(5) ACCUMULATION DISTRIBUTIONS OF FOREIGN TRUST.—For purposes of this chapter, in the case of amounts of income from sources without the United States which are treated under section 666 (without regard to subsections (b) and (c) thereof if the taxpayer chose to take a deduction with respect to the amounts described in such subsections under section 667(d)(1)(B)) as having been distributed by a foreign trust in a preceding taxable year, that portion of such amounts equal to the amount of any overall foreign loss sustained by the beneficiary in a year prior to the taxable year of the beneficiary in which such distribution is received from the trust shall be treated as income from sources within the United States (and not income from sources without the United States) to the extent that such loss was not used under this subsection in prior taxable years, or in the current taxable year, against other income of the beneficiary.". 26 USC 666. 26 USC 667.

(3) EFFECTIVE DATES.—

26 USC 665 note. (A) The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

26 USC 904 note. 26 USC 904. 26 USC 904. (B) The amendments made by paragraph (2) shall take effect as if included in section 904(f) of the Internal Revenue Code of 1954, as such provision was added to such Code by section 1032(a) of the Tax Reform Act of 1976.

(r) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

26 USC 667. (1) IN GENERAL.—Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest." 26 USC 662.

(2) Effective date.—The amendment made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

26 USC 667 note.

(s) Exempt Interest Dividends of Regulated Investment Companies.—

(1) Treatment of tax-exempt interest for purposes of the 90-percent and 30-percent tests.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income."

26 USC 851.

26 USC 103.

(2) Losses attributable to tax-exempt interest where stock is held less than 31 days.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows:

26 USC 852.

"(4) Loss on sale or exchange of stock held less than 31 days.—

"(A) Loss attributable to capital gain dividend.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) Loss attributable to exempt-interest dividend.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) Determination of holding periods.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(C)(3)."

26 USC 246.

(3) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

26 USC 851 note.

(t) Amendments Relating to Real Estate Investment Trusts.—

(1) Annual accounting period.—Section 859 (relating to adoption of annual accounting period), as redesignated by the Act, is further amended to read as follows:

26 USC 859.

"SEC. 859. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

26 USC 856.

(2) Amendment of section 856(c)(3)(D).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) Excise tax on REIT undistributed income.—

26 USC 6501.

(A) Paragraph (3) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

26 USC 275.

(B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

26 USC 6212.

(C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 4971.

26 USC 4971, 4981.

"(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

26 USC 859.

(4) Correction of cross reference.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601(b)".

26 USC 859 note.

(5) Effective date.—The amendments made by this subsection shall take effect on October 4, 1976.

(u) Amendments Relating to Treatment of Foreign Income.—

(1) Foreign tax credits not disallowed on certain distributions made by possessions corporations.—

26 USC 901.

(A) In general.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows:

"(1) In general.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B) (i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) Definition of possessions corporation.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

26 USC 931.

(i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) Effective dates.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date. 26 USC 901 note. 26 USC 901.

(2) Foreign tax credit adjustments for capital gains.— 26 USC 904.

(A) In general.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) Source rule.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) Source rule for liquidations of certain foreign corporations.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) Gain from liquidation of certain foreign corporations.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) Effective date.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975. 26 USC 904 note.

(3) Treatment of certain capital loss carryovers and carrybacks for purposes of the limitation on credit for foreign taxes.—

(A) In general.—Clause (iii) of section 904(b)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))". 26 USC 904. 26 USC 1212.

(B) Effective date.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975. 26 USC 904 note.

(4) Treatment of capital loss carryovers for purposes of foreign loss recapture.—

(A) In general.—Subparagraph (a) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212". 26 USC 904. 26 USC 1212.

(B) Foreign oil related losses.—Subparagraph (A) of section 904(f)(4) (relating to determination of foreign oil 26 USC 904.

26 USC 907.

26 USC 1212.

related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

26 USC 904 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

26 USC 904 note.

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

26 USC 904 note.

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

26 USC 904 note.

26 USC 904.

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to such loss under the principles of such section 904(a)(1)."

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

26 USC 904 note.

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

26 USC 904 note.

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxpayer in such possession on January 1, 1976, and

"(iii) the taxpayer chooses to have the benefits of subpart A of part III of subchapter N apply for such taxable year and section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year.

26 USC 904.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.—In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act); but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) applies by reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) TAXPAYERS NOT ENGAGED IN TRADE ON BUSINESS ON JANUARY 1, 1976.—In any case to which this paragraph applies but for the fact that the taxpayer was not engaged in a trade or business in such possession on January 1, 1976, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979; if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of such section 904(a)(1).

"(E) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined, was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504."

26 USC 1504.

26 USC 904 note.

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

26 USC 907.

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—Subsection (a) (as amended by this Act) of section 907 (relating to special rules in case of foreign oil and gas income) is further amended to read as follows:

26 USC 901.

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

26 USC 11.

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

26 USC 901.

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income."

26 USC 904.

26 USC 907, 904.

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section 907 (relating to application of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

26 USC 904.

26 USC 907.

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section 904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

26 USC 907 note.

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

26 USC 907.

26 USC 904.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

26 USC 907 note.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preced-

ing sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date.".

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows: 26 USC 911.

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accrued by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction— 26 USC 151.

"(A) the numerator of which is the tax determined under subsection (d) (1) (B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph (A), plus the limitation imposed for the taxable year by section 904(a).". 26 USC 904.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976. 26 USC 911 note.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows: 26 USC 936.

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"([illegible]) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any asset the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) Exception for possessions corporations, etc.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

26 USC 931, 957.

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) Definitions and Special Rules.—".

26 USC 936 note.

26 USC 936.

(C) Effective date.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

26 USC 995 note.

(12) Gain on disposition of stock in a DISC.—

(A) Delay in effective date.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

26 USC 995.

(B) Technical amendment.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

26 USC 995 note.

(C) Effective date.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

26 USC 1248.

26 USC 751.

(13) Limitation on partner's tax where partner receives amount treated as sale of section 1248 stock.—

(A) In general.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

26 USC 1248.

26 USC 731, 736, 741.

26 USC 1248.

"(e) Limitation on Tax Attributable to Deemed Sales of Section 1248 Stock.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporation)."

26 USC 736.

(B) Cross reference.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

26 USC 751 note.

(C) Effective date.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14) **Excise tax on transfers of property to foreign persons to avoid federal income tax.**—

(A) **Transfers involving estates.**—Section 1491 (relating to tax on transfers to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust".

26 USC 1491.

(B) **Clarification of paragraph (3) of section 1492.**—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows:

26 USC 1492.

"(3) To a transfer described in section 367; or".

26 USC 367.

(C) **Effective date.**—The amendments made by this paragraph shall apply to transfers after October 2, 1975.

26 USC 1491 note.

(15) **Election to treat nonresident alien individual as resident of the United States.**—

(A) **Provisions affected by election.**—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows:

26 USC 6013.

"(1) **In general.**—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and

26 USC 1 *et seq.*, 1491 *et seq.*

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

26 USC 3401 *et seq.*

(B) **Conforming amendment.**—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary) is amended by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5".

26 USC 6013.

(C) **Year of residency.**—Paragraph (1) of section 6013(h) (relating to return for year nonresident alien becomes resident) is amended—

(i) by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5", and

26 USC 1 *et seq.*, 1491 *et seq.*

(ii) by inserting before the period at the end thereof the following: ", and for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year".

26 USC 3401 *et seq.*

(D) **Certain amounts withheld under chapter 3 treated as overpayments of tax.**—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013 (g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31."

26 USC 6401.

26 USC 32.

26 USC 6013.

26 USC 31.

(E) **Effective dates.**—The amendments made by this paragraph—

26 USC 6013 note.

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and

26 USC 1 *et seq.*, 1491 *et seq.*

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month

26 USC 3401 *et seq.*

which begins more than 90 days after the date of the enactment of this Act.

(16) **Nonresident alien individual allowed to be treated as resident of the United States.**—

26 USC 6013.

(A) **In general.**—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

26 USC 6013 note.

(B) **Effective date.**—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(v) **Amendment of Section 1239(a).**—

26 USC 1239.

26 USC 167.

(1) **In general.**—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

26 USC 1239 note.

26 USC 1239.

(2) **Effective date.**—The amendment made by paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

(w) **Recapture of Depreciation on Player Contracts.**—

26 USC 1245.

(1) **In general.**—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

"(C) **Previously unrecaptured depreciation with respect to contracts transferred.**—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer."

(2) **Recapture of depreciation with respect to initial contracts.**—Subparagraph (B) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to initial contracts) is amended—

(A) by inserting "attributable to periods after December 31, 1975," after "depreciation" in clause (i),

(B) by inserting "incurred after December 31, 1975," after "losses" in clause (i), and

(C) by inserting "described in clause (i)" after "amounts" in clause (ii).

26 USC 1245 note.

(3) **Effective date.**—The amendments made by this subsection shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(x) **Treatment of Pensions and Annuities for 50-Percent Maximum Rate on Personal Service Income.**—

26 USC 1348.

(1) **In general.**—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax-deductible contributions to a retirement plan".

(2) **Technical amendment.**—The last sentence of section 1348(b) is amended by striking out "earned income" and inserting in lieu thereof "personal service income".

(3) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976. 26 USC 1348 note.

(y) Changes in the Subchapter S Provisions.—

(1) Grantor trust may be treated as permitted shareholder after decedent's death; grantor or grantor trust must be individual.—Paragraph (1) of subsection (e) of section 1371 (as redesignated by this Act) is amended to read as follows:

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter. 26 USC 1371.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976. 26 USC 1371 note.

(z) Withholding of Federal Taxes on Certain Individuals Engaged in Fishing.—

(1) In general.—Section 1207(f)(4) of the Tax Reform Act of 1976 (relating to effective date of provisions relating to withholding on certain individuals engaged in fishing) is amended by striking out "December 31, 1971" each place it appears and inserting in lieu thereof "December 31, 1954". 26 USC 3121 note.

(2) Effective date.—The amendments made by paragraph (1) shall take effect on October 4, 1976. 26 USC 3121 note.

(aa) Withdrawals From Individual Retirement Accounts, Etc.—

(1) In general.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting in lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220(b)(3)". 26 USC 4973. 26 USC 219. 26 USC 219, 220.

(2) Effective date.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act. 26 USC 4973 note.

(bb) Amendments Relating to Disclosure of Tax Returns.—

(1) Disclosure of mailing address for purposes of collecting certain student loans.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows: 26 USC 6103.

"(m) Disclosure of Taxpayer Identity Information.—

"(1) Tax refunds.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) Federal claims.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a

31 USC 952.

Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

20 USC 1088 *et seq.*

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

26 USC 6103.

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

26 USC 7213.

(C) Paragraph (2) of section 7213(a) (relating to penalties for unauthorized disclosure of information) is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

26 USC 6103.

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(i) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(i) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than

taxpayer return information) which may constitute evidence of a violation of Federal criminal laws."

(5) Disclosure under tax conventions.—Section 6103(k)(4) (relating to disclosure of return information under income tax conventions) is amended— 26 USC 6103.

(A) by striking out "income" in the caption thereof,

(B) by inserting "or gift and estate tax" after "income tax", and

(C) by inserting ", or other convention relating to the exchange of tax information," after "convention" the first place it appears.

(6) Criminal penalty for unauthorized disclosure of information.—Section 7213(a) (relating to unauthorized disclosure of information) is amended— 26 USC 7213.

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(7) No civil liability for good faith but erroneous interpretation of disclosure requirements.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended— 26 USC 7217.

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) No Liability for Good Faith but Erroneous Interpretation.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and 26 USC 6103.

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "Period for Bringing Action.—An action".

(8) Effective dates.— 26 USC 6103 note.

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (7) shall apply with respect to disclosures made after the date of the enactment of this Act.

(cc) Amendments Relating to Income Tax Return Preparers.—

(1) Negotiation of checks by bank.—Subsection (f) of section 6695 (relating to negotiation of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer." 26 USC 6695. 26 USC 581.

(2) Definition.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows: 26 USC 7701.

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

26 USC 6695 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(dd) CLARIFICATION OF DECLARATORY JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

26 USC 7476.

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to qualification of certain retirement plans) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

26 USC 7428.
26 USC 501.

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

26 USC 7476 note.
26 USC 7476, 7428.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

(ee) CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.—

26 USC 1231.

(1) IN GENERAL.—Paragraph (1) of section 1231(b) (relating to definition of property used in trade or business) is amended—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(D) a publication of the United States Government (including the Congressional Record) which is received from the United States Government, or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer described in paragraph (6) of section 1221.".

26 USC 1221.
26 USC 1231 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and contributions made after October 4, 1976.

(ff) EXEMPTION FOR LIGHT-DUTY TRUCK PARTS.—

26 USC 4063.

(1) IN GENERAL.—Section 4063 (relating to exemption of motor vehicles and parts) is amended by adding at the end thereof the following new subsection:

26 USC 4061.

"(e) PARTS FOR LIGHT-DUTY TRUCKS.—The tax imposed by section 4061(b) shall not apply to the sale by the manufacturer, producer, or importer of any article which is to be resold by the purchaser on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), or which is to be resold by the purchaser to a second purchaser for resale by such second purchaser on or in connection with the first retail sale of a light-duty truck."

(2) CONFORMING AMENDMENTS.—

26 USC 4221.
26 USC 4063.

(A) Section 4221(c) (relating to manufacturer relieved from liability in certain cases) is amended by inserting "4063(e)," after "4063(b),".

(B) Section 4222(d) (relating to registration in the case of tax-free sales) is amended by inserting "4063(e)," after "4063(b),".

26 USC 4222.
26 USC 4063.

(3) Effective date.—The amendments made by this subsection shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act.

26 USC 4063 note.

SEC. 702. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND GIFT TAX PROVISIONS.

(a) Amendments Relating to Treatment of Section 306 Stock.—

(1) Application of "fresh start" to section 306 stock.—Subsection (a) of section 306 (relating to disposition of certain stock) is amended by adding at the end thereof the following new paragraph:

26 USC 306.

"(3) Ordinary income from sale or redemption of section 306 stock which is carryover basis property adjusted for 1976 value.—

"(A) In general.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of—

26 USC 1023.
26 USC 301.

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h).

26 USC 1023.

"(B) Redemption must be described in section 302(b).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)."

26 USC 302.

(2) Clarification that section 303 overrides section 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) Section 303 redemptions.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1979.

26 USC 306 note.

(b) Coordination of Deduction for Estate Taxes Attributable to Income in Respect of a Decedent With the Capital Gain Deduction, Etc.—

(1) In general.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph:

26 USC 691.

"(4) Coordination with capital gain deduction, etc.—For purposes of sections 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item."

26 USC 1201, 1202, 1211.
26 USC 57.

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act.

26 USC 691 note.

(c) Amendments Relating to Carryover Basis.—

(1) AMENDMENTS RELATING TO THE POSTPONEMENT OF THE EFFECTIVE DATE OF CARRYOVER BASIS PROVISIONS.—

(A) FAIR MARKET VALUE WHERE FARM VALUATION ELECTED.—Subsection (a) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

26 USC 1014.

"(a) IN GENERAL.—Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be—

"(1) the fair market value of the property at the date of the decedent's death, or

"(2) in the case of an election under either section 2032 or section 811(j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections, or

26 USC 5712, 2032.

"(3) in the case of an election under section 2032.1, its value determined under such section."

26 USC 2032.

(B) GENERATION-SKIPPING TRANSFERS.—The second sentence of section 2614(a) (relating to basis adjustments in connection with generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted—

26 USC 2614.

"(1) in the case of such a transfer occurring after June 11, 1976, and before January 1, 1980, in a manner similar to the manner provided under section 1014(a), and

26 USC 1014.

"(2) in the case of such a transfer occurring after December 31, 1979, in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1979)."

26 USC 1023.

(2) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

26 USC 1023.

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for any property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

26 USC 2032.

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

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(B) Conforming amendment.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

26 USC 1023.

(3) Treatment of indebtedness.—

(A) In general.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11".

26 USC 2001 *et seq.*

(B) Technical amendment.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(4) Only one fresh start with respect to carryover basis property held on December 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

26 USC 1023.

"(4) Only one fresh start.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(5) Automatic long-term status for gains and losses on carryover basis property.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014".

26 USC 1223, 1023, 1014.

(6) Clarification that adjusted basis is increased for state estate taxes.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

26 USC 1023.

"(c) Increase in Basis for Federal and State Estate Taxes Attributable to Appreciation.—

"(1) Federal estate taxes.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the Federal estate taxes as—

26 USC 2001.
26 USC 2101.

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

26 USC 2001, 2101.

"(2) State estate taxes.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment

26 USC 1023.

under paragraph (1) of subsection (c), for purposes of subsection (d),".

26 USC 1023.

(C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

26 USC 2001, 2101.

"(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

26 USC 1023.

(7) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(8) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

26 USC 1001.
26 USC 1014, 1015.

(9) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

26 USC 1014, 1015, 1023.
26 USC 1014 note.
26 USC 1 note.

(10) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments and additions made by, and the appropriate provisions of the Tax Reform Act of 1976.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

26 USC 2032A.

(1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A(b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2032A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

26 USC 1014.

"(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM VALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Subsection (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11".

26 USC 1040.

26 USC 2032A, 2001 *et seq.*

(4) TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

26 USC 2032A.

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A(c) is amended to read as follows:

"(6) LIABILITY FOR TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e)(11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(11) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determination of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2032A note.

(e) AMOUNT OF SECURITY REQUIRED FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES.—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for the payment of the tax imposed by chapter 11)."

26 USC 6324A.

26 USC 6151.

26 USC 2001 *et seq.*

26 USC 6324A.

(B) Subparagraph (B) of section 6324A(b)(2) (relating to maximum value of required property) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6324A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

26 USC 6324A note.

(2) **Effective date.**—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) **Clarification of the $3,000 Annual Exclusion From the Rule Including in Gross Estate Transfers Within 3 Years of Death.**—

(1) **Amendment of section 2035(b).**—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

26 USC 2035.

"(b) **Exceptions.**—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

26 USC 6019.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

26 USC 2035 note.

(2) **Effective date.**—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976, except that it shall not apply to transfers made before January 1, 1977.

(g) **Amendments Relating to Estate Tax Marital Deduction.**—

(1) **Deduction not reduced for gift to spouse which is included in donor's estate by reason of section 2035.**—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

26 USC 2056.

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

26 USC 2035.

(2) **Reduction for gift tax marital deduction in excess of 50 percent of the value of gifts to a spouse.**—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

26 USC 2056.

(3) **Effective date.**—The amendment made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2056 note.

(h) **Coordination of Sections 2513 and 2035.**—

26 USC 2513, 2035.

(1) **In general.**—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

26 USC 2001.

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If—

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

26 USC 2513, 2035.

26 USC 2513.

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

26 USC 2035.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping transfers) is amended by striking out "section 2001(b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))".

26 USC 2602.

26 USC 2001.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.

26 USC 2001 note.

(i) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS.—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

26 USC 2036.

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right (either alone or in conjunction with any person) to vote, stock possessing at least 20 percent of the total combined voting power of all classes of stock.

26 USC 318.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent."

26 USC 2035.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 2036 is amended by striking out the last sentence thereof.

26 USC 2036.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers made after June 22, 1976.

26 USC 2036 note.

(j) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220".

26 USC 2039.

26 USC 219.

26 USC 219, 220.

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTERESTS.—Section

26 USC 2503.

2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) Individual Retirement Accounts, Etc., for Spouse.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 408(a),

26 USC 408.

"(2) for an individual retirement annuity described in section 408(b), or

26 USC 409.

"(3) for a retirement bond described in section 409,

shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220".

(3) Effective dates.—

26 USC 2039 note.

(A) The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2503 note.

(B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) Provisions Relating to Treatment of Joint Interests.—

(1) Removal of requirement of actuarial computations for joint interests in personal property.—

26 USC 2511 *et seq.*
26 USC 2515.

(A) In general.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

26 USC 2515A.

"SEC. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) Certain Actuarial Computations Not Required.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) Exception.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

26 USC 2515.

(B) Change in section 2515 heading.—The heading for section 2515 is amended to read as follows:

"SEC. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

26 USC 2511 *et seq.*
26 USC 2515.

(C) Clerical amendments.—The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property.
"Sec. 2515A. Tenancies by the entirety in personal property."

26 USC 2515A note.

(D) Effective date.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) Extension of fractional interest rule to certain joint interests in real or personal property created before 1977.—

26 USC 2040.

Section 2040 (relating to joint interests) as amended by this Act, is further amended by adding at the end thereof the following new subsections:

"(d) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor. 26 USC 2503.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under section 6501 has expired with respect to the tax (if any) on such gift, 26 USC 6501.

then the value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(e) TREATMENT OF CERTAIN POST-1976 TERMINATIONS.—

"(1) IN GENERAL.—If—

"(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, such joint interest was terminated, and

"(C) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created.

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (d).

"(2) Special rules.—For purposes of applying subsection (d) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraphs (4) and (5) of subsection (d) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) Amendments Relating to Orphans' Exclusion.—

(1) Orphans' exclusion where there is a trust for minor children.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

26 USC 2057.

"(d) Qualified Minors' Trust.—

"(1) In general.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) Qualified minors' trust.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the beneficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) Certain disproportionate distributions permitted.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) Trustee may accumulate income.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) Coordination with subsection (c).—In applying subsection (c) to a qualified minors' trust, those provisions of section

2056(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply.

26 USC 2056.

"(6) Death of beneficiary before youngest child reaches age 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decedent attains age 23."

(2) Age 23 for terminable interest rule in the case of orphans' exclusion.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23".

26 USC 2057.

(3) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

26 USC 2057 note.

(m) Disclaimer by Surviving Spouse Where Interest Passes to Such Spouse.—

(1) In general.—Paragraph (4) of section 2518(b) (defining qualified disclaimer) is amended to read as follows:

26 USC 2518.

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) Effective date.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976.

26 USC 2518 note.

(n) Amendments Relating to Tax on Generation-Skipping Transfers.—

(1) Effective date of generation-skipping transfer provisions.—Section 2006(c) of the Tax Reform Act of 1976 (relating to effective date of generation-skipping transfer provisions) is amended by striking out "April 30, 1976" each place it appears and inserting in lieu thereof "June 11, 1976".

26 USC 2601 note.

(2) Certain powers of independent trustees not treated as powers.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows:

26 USC 2613.

"(e) Certain Powers Not Taken Into Account.—

"(1) Limited power to appoint among lineal descendants of the grantor.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) Powers of independent trustees.—

"(A) In general.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate trustee' means any trustee who is assigned to a younger generation than the grantor's generation and who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor or of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control,

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive,

"(v) a partner of a partnership in which the interest of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of operating control or distributive share of partnership income,

"(vi) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive, or

"(vii) an employee of a partnership in which the grantor or any beneficiary of the trust is a partner.".

26 USC 2613.

(3) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) (defining taxable termination for purposes of the tax on generation-skipping transfer) is amended—

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(4) ALTERNATE VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

26 USC 2602.

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transferor".

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "(or beneficiary)" after "the deemed transferor".

26 USC 2613 note.

(5) EFFECTIVE DATE.—

26 USC 2601 *et seq.*

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976.

(B) The amendment made by paragraph (1) shall take effect on October 4, 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

26 USC 667.

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) In general.—The partial tax shall be reduced by an amount which is equal to the pre-death portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportionate basis) to amounts included in the accumulation distribution, and

26 USC 2001 *et seq.*, 2601 *et seq.*

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

"(B) Partial tax determined without regard to this paragraph.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) Pre-death portion.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) Effective date.—The amendment made by paragraph (1) shall apply—

26 USC 667 note.

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1979, and

26 USC 2001 *et seq.*

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after June 11, 1976.

26 USC 2601 *et seq.*

(p) Relief of Executor From Personal Liability in the Case of Reliance on Gift Tax Returns.—

(1) In general.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

26 USC 2204.

"(d) Good Faith Reliance on Gift Tax Returns.—If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

26 USC 6103.

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

26 USC 2204 note.

(q) Indexing of Federal Tax Liens.—

(1) In general.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

26 USC 6323.

"(4) Indexing required with respect to certain real property.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien."

26 USC 6323.

(2) REFILING OF NOTICE OF LIEN.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection (f)(4); and".

26 USC 6323 note.

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

26 USC 6323.

(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(r) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

26 USC 6694.

26 USC 6698.

(A) IN GENERAL.—Section 6694 (relating to failure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976 is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end thereof the following new subsection:

26 USC 6211 *et seq.*

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

26 USC 6671 *et seq.*

(C) TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basis property."

and inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

26 USC 2051.

(2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

26 USC 1016.

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) Clerical amendment to section 6324B(b).—Subsection (b) of section 6324B (relating to period of lien for additional estate tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property". 26 USC 6324.

(5) Effective date.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976. 26 USC 6698 note.

SEC. 703. CORRECTIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) Erroneous Cross Reference in Investment Credit.—

(1) Amendment of section 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)". 26 USC 46.

(2) Amendment of section 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936". 46 USC 1245 note. 46 USC 1101 *et seq.*

(3) Amendment of section 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) Amendment of section 48(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)". 26 USC 48. 26 USC 57.

(b) Prepaid Legal Services.—

(1) Paragraph (2) of section 2134(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)". 26 USC 120 note. 26 USC 120.

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph". 26 USC 501.

(c) Amendments Relating to Sections 219 and 220.—

(1) Amendment of section 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)". 26 USC 219.

(2) Amendment of section 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to the account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond". 26 USC 220.

(3) Amendment of section 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payment".

(4) Amendment of section 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows: 26 USC 408.

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976. 26 USC 46 note.

(d) Accrual Accounting for Farm Corporations.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses". 26 USC 447.

(e) Amendment of Section 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7). 26 USC 911.

26 USC 4940 note.

(f) Transition Rule for Private Foundations.—Subparagraph (F) of section 101(l)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) Lobbying by Public Charities.—

26 USC 4911.

(1) Lobbying nontaxable amount.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) Technical amendments relating to section 501.—

26 USC 501.

(A) Section 2(a) of Public Law 94-568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

26 USC 501.

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94-568) is redesignated as subsection (i).

26 USC 501 note.

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94-568.

(h) Amendments to Foreign Tax Provisions.—

26 USC 907 note.

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

26 USC 907.

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

26 USC 999.
26 USC 995.

(2) Paragraph (1) of section 999(c) (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) Amendments to DISC Provisions.—

26 USC 995.

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Subparagraph (G) of section 995(b)(1) is amended by striking out "subsection (D)" and inserting in lieu thereof "subsection (d)".

26 USC 996.
26 USC 995.

(3) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

26 USC 995 note.
26 USC 993.
26 USC 995.

(4) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) The heading of paragraph (1) of section 103(b) is amended to read as follows: 26 USC 103.

"(1) SUBSECTION (a) (1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a) (1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a) (1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a) (1) or (2) or (4)" and inserting in lieu thereof "subsection (a) (1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended— 26 USC 311.

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976. 26 USC 311 note.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended— 26 USC 453.

(A) by striking out "(or by the corresponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "any paragraph of section 805(d)". 26 USC 801. 26 USC 805.

(5) AMENDMENT OF SECTION 1033(a)(2).—Clause (ii) of section 103(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)". 26 USC 1033.

(6) AMENDMENT OF SECTION 1375(a).—Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such gain". 26 USC 1375.

(7) AMENDMENT OF SECTION 1561(b)(3).—Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)". 26 USC 1561.

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)". 26 USC 1402.

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT TO SECTION 46(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking 26 USC 46.

26 USC 46.

out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

26 USC 6504.

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504".

26 USC 37 note.

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

26 USC 2011 note.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

26 USC 2011 note.

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (9) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

26 USC 2501 note.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

26 USC 4973 note.

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 1904(a)(22)(A).—Notwithstanding section 1904(d) of the Tax Reform Act of 1976, the amendment made by section 1904(a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

42 USC 402.

(A) Section 202(v) of the Social Security Act is amended by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

42 USC 405.

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

42 USC 410.

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

42 USC 411.

26 USC 35.

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal Revenue Code of 1954)".

42 USC 411.

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

26 USC 1212.

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

26 USC 4041.

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

26 USC 6427.

(3) Subsection (d) of section 6427 (relating to repayment of tax on fuels used by certain aircraft museums) is amended by

striking out "Secretary or his delegate" and inserting in lieu thereof "Secretary".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)".

26 USC 7609.

(m) Inspection by Committee of Congress.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)".

26 USC 6104.
26 USC 6103.

(n) Amendment of Section 6501.—Subsections (h), (j), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)".

26 USC 6501.

(o) Conforming Amendments to New Definition of Taxable Income.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended—

26 USC 443.

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amount."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjusted amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) Modified taxable income defined.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

26 USC 443 note.

(p) Conforming Amendments to Repeal of Section 317 of Trade Expansion Act of 1962.—

26 USC 172.

(1) Amendments of section 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows:

26 USC 172.

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraphs (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively.

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

26 USC 6501.

(2) **Amendment of section 6501(h).**—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

26 USC 6511.

(3) **Amendment of section 6511(d)(2).**—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A)), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

26 USC 1481.

26 USC 172 note.

(4) **Effective date.**—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

(q) **Conforming Amendment To Repeal of Section 2 of the Emergency Insured Student Loan Act of 1969.**—

20 USC 1001 note.

26 USC 103.

20 USC 1001 note.

20 USC 1087-1.

(1) **In general.**—Paragraph (5) of section 103(d) (relating to arbitrage bonds) is amended by striking out "section 2 of the Emergency Insured Student Loan Act of 1969" and inserting in lieu thereof "section 438 of the Higher Education Act of 1965".

26 USC 103 note.

(2) **Effective date.**—The amendment made by paragraph (1) shall apply with respect to payments made by the Commissioner of Education after December 31, 1976.

26 USC 46 note.

(r) **Effective Date.**—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

SEC. 801. GRANTS TO STATES FOR SOCIAL SERVICES.

42 USC 1397a.

(a) **Amount To Be Allocated to States.**—Section 2002(a)(2)(A) of the Social Security Act is amended—

(1) by striking out "$2,500,000,000" and inserting in lieu thereof "the amount specified in clause (ii)";

(2) by inserting "(i)" after "(2)(A)"; and

(3) by adding the following clause at the end thereof:

"(ii) The amount specified for purposes of clause (i) is $2,500,000,000 for fiscal years prior to fiscal year 1979, $2,700,000,000 for fiscal year 1979, and $2,500,000,000 for fiscal years after fiscal year 1979.".

42 USC 1397a note.

(b) **Additional Amount for Child Day Care Services in Fiscal Year** 1979.—Section 3 of Public Law 94-401 is amended—

(1) in the matter preceding paragraph (1) of subsection (a)—

(A) by striking out the word "and" which appears after "1977,", and

(B) by inserting after "1978," the following: "and the fiscal year ending September 30, 1979,",

(2) in subsection (a)(1), by adding after and below subparagraph (B) the following new subparagraph:

"(C) 107.407 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1979, or",

(3) in subsection (a)(2), by striking out "or either such fiscal year" and inserting in lieu thereof "or any such fiscal year",

(4) in subsection (b), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year",

(5) in subsections (c)(1) and (c)(2)(A), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year (other than the fiscal year ending September 30, 1979)",

(6) in subsection (d)(1)—

(A) by striking out the word "or" which appears after "1977,", and

(B) by inserting after "1978" the following: ", or the fiscal year ending September 30, 1979", and

(7) in subsection (d)(2), by striking out "for either such fiscal year" and inserting in lieu thereof "for any such fiscal year".

SEC. 802. CHANGE IN PUBLIC ASSISTANCE MATCHING FORMULA, AND INCREASE IN AMOUNT OF PUBLIC ASSISTANCE DOLLAR LIMITATIONS, FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM IN FISCAL YEAR 1979.

(a) PUBLIC ASSISTANCE MATCHING FORMULA.—Section 1118 of the Social Security Act is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'Federal medical assistance percentage' shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum when applied to quarters in the fiscal year ending September 30, 1979.". 42 USC 1318.

(b) DOLLAR LIMITATIONS.—Subsection (a) of section 1108 of such Act is amended— 42 USC 1308.

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the semicolon at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) $72,000,000 with respect to the fiscal year 1979;",

(2) in paragraph (2)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out "; and" at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) $2,400,000 with respect to the fiscal year 1979;", and

(3) in paragraph (3)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the period at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or", and

(C) by adding at the end thereof the following new subparagraph:

"(F) $3,300,000 with respect to the fiscal year 1979.".

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1445 (Comm. on Ways and Means) and 95-1800 (Comm. of Conference).

SENATE REPORT No. 95-1263 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 10, considered and passed House.

Oct. 5, 6, 7, 9, 10, considered and passed Senate, amended.

Oct. 15, Senate and House agreed to conference report.

O

Public Law 95-601
95th Congress

An Act

To authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

Nov. 6, 1978
[S. 2584]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nuclear Regulatory Commission. Appropriation authorization, 1978.

SECTION 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1979, to remain available until expended $333,007,000. Of such total amount authorized to be appropriated:

(1) not more than $47,162,000 may be used for "Nuclear Reactor Regulation"; of the total amount appropriated for this purpose, $2,080,000 shall be available for Advanced Reactors;

(2) not more than $38,760,000 may be used for "Inspection and Enforcement";

(3) not more than $14,945,000 may be used for "Standards Development"; of the total amount appropriated for this purpose, $650,000 shall be available for Low-Level Radiation activities, including those described in section 5 of this Act;

(4) not more than $27,240,000 may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose, $8,127,000 shall be available for Nuclear Waste Disposal and Management activities;

(5) not more than $163,470,000 may be used for "Nuclear Regulatory Research"; of the total amount appropriated for this purpose, $1,500,000 shall be available for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended, $4,448,000 shall be available for Nuclear Waste research activities, and $18,333,000 shall be available for Advanced Reactor Research, including an authorization of $3,900,000 to accelerate the effort in gas-cooled thermal reactor safety research.

42 USC 5845.

(6) not more than $13,480,000 may be used for "Program Technical Support";

(7) not more than $27,950,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity.

Safeguard research contracts, limitation.

(b)(1) Not more than $14,285,000 of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a) may be used for contracts encompassing research, studies, and technical assistance on domestic safeguards matters.

(2) Of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a), $1,000,000 shall be available for studies and analysis of alternative fuel cycles (including studies and analysis relating to licensing and safety, safeguards, and environmental aspects).

(c)(1) No amount appropriated pursuant to subsection (a) for purposes of subparagraphs (1) through (7) of such subsection, may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such subparagraphs be reduced by more than $500,000, unless

(i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

(2) Of the amounts authorized to be appropriated for the purposes set forth in paragraphs (1) through (7) of subsection (a) of this section, the amounts available for Advanced Reactors, Low-Level Radiation, Nuclear Waste Disposal and Management, Improved Safety Systems Research, and Nuclear Waste Research, or that specified in subsection (b)(2) of this section for Alternative Fuel Cycle activities shall not be reprogramed, unless—

(i) a period of ninety calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

Safeguard research contracts, limitation.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract, providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

Funds, transfers.

SEC. 4. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission."

42 USC 5849.

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semiannual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts.".

Equal employment opportunity, report.

SEC. 5. (a) The Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, are authorized and directed to conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation. In the conduct of such studies, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

Radiation, health effects studies, consultation.
42 USC 2051 note.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies authorized by subsection (a) of this section.

Memorandum, submittal to Congress.

(c) On or before April 1, 1979, the Commission and the Environmental Protection Agency shall submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low-level ionizing radiation.

Reports to Congress, consultations.

(d) On or before September 30, 1979, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, shall submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low-level ionizing radiation, with evaluations of the feasibility of such options. Such report shall be consistent with the findings of the assessment required by subsection (c) of this section.

(e) In carrying out the activities specified in subsections (c) and (d) such agencies shall:

(i) cooperate with appropriate scientific organizations and agencies involved in related research, and

Cooperation.

(ii) furnish copies of the reports required by those subsections to the organizations and agencies referred to in subsection (e)(i).

Copies.

SEC. 6. Section 209 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

Annual status report.

"(d) The Executive Director shall prepare and forward to the Commission an annual report (for the fiscal year 1978 and each succeeding fiscal year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities licensed

Report to Congress.

42 USC 5877.

by the Commission. The Commission shall forward to the Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 307(c) of the Energy Reorganization Act of 1974) following the fiscal year to which such report applies.".

Review.
42 USC 5841 note.

Report to Congress.

Sec. 7. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

Disclosure rules.

Sec. 8. (a) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC. 2210a.

"Sec. 170A. Conflicts of Interest Relating to Contracts and Other Arrangements.—

"a. The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

"b. The Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection a. and any other information otherwise available to the Commission that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

Publication.

"c. The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States

Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.".

(b) The table of contents for such chapter 14 is amended by adding the following new item at the end thereof:

"Sec. 170A. Conflicts of interest relating to contracts and other arrangements.".

Monitoring and assistance, reports to Congress. **42 USC 2153 note.**

SEC. 9. The Commission shall monitor and assist, as requested, the International Fuel Cycle Evaluation and the studies and evaluations of the various nuclear fuel cycle systems by the Department of Energy in progress as of the date of enactment, and report to the Congress semiannually through calendar year 1980 and annually through calendar year 1982 on the status of domestic and international evaluations of nuclear fuel cycle systems. This report shall include, but not be limited to, a summary of the information developed by and available to the Commission on the health, safety and safeguards implications of the leading fuel cycle technologies.

SEC. 10. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

42 USC 5851.

"SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;

42 USC 2011 note.

"(2) testified or is about to testify in any such proceeding or;

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

Complaint, filing and notification.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

Investigation and notification.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the

Order.

Notice and hearing.
Settlement.

person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

Relief.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

Review.

5 USC 701 *et seq.*

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

Jurisdiction.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

Litigative costs.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

42 USC 2011 note.

Report to Congress.

42 USC 2205a.

SEC. 11. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

Authority extension, study.

42 USC 5842 note.

SEC. 12. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

Cooperation.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

Report to Congress.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies.

SEC. 13. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

Waste storage or disposal facility planning, notification.

42 USC 2021a.

SEC. 14. (a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility, for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed situs whenever the Commission has knowledge of such proposal.

State participation, report.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

Submittal with legislative recommendations to Congress.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1089, pt. I and pt. II, accompanying H.R. 12355 (Comm. on Interior and Insular Affairs) and (Comm. on Interstate and Foreign Commerce) and No. 95-1796 (Comm. of Conference).
SENATE REPORT No. 95-848 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed Senate.
Oct. 3, 4, H.R. 12355 considered and passed House; passage vacated and S. 2584, amended, passed in lieu.
Oct. 14, House agreed to conference report.
Oct. 15, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 8, Presidential statement.

Public Law 95-602
95th Congress

An Act

Nov. 6, 1978
[H.R. 12467]

To amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.
29 USC 701 note.

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

VOCATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS

SEC. 101. (a) Section 100(b) of the Rehabilitation Act of 1973 is amended—

Federal grants.
29 USC 720.

(1) in subsection (b)(1), by adding at the end the following: "There is further authorized to be appropriated for such purpose $808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for the three succeeding fiscal years but in no event shall the amount appropriated be greater than $880,000,000 for the fiscal year ending September 30, 1980, $945,000,000 for the fiscal year ending September 30, 1981, and $972,000,000 for the fiscal year ending September 30, 1982.";

(2) by amending subsection (b)(2) to read as follows:

"(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $55,000,000 for the fiscal year ending September 30, 1981, and $60,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary."; and

29 USC 740.

(3) by adding at the end the following new paragraph:

"(3) For the purpose of making grants to Indian tribes under part D of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this subsection.".

Indian tribes.
***Post*, p. 2961.**

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(c)(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published

Percentage change in price index, publication in Federal Register.

for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(2)(A) If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

"(B) If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the price index, then the amount authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under paragraph (1).

"Price index".

"(3) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

29 USC 730.

(c) Section 110(a) of the Rehabilitation Act of 1973 is amended to read as follows:

29 USC 720.

"Sec. 110. (a)(1) For each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of (A) the population of the State, and (B) the square of its allotment percentage, bears to the sum of the corresponding products for all the States.

"(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.

Ante, p. 2955.

"(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

"(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

"(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

"(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) under this subsection for any fiscal year which is less than one-third of 1 percent of the amount appropriated under section 100(b)(1), or $3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.".

29 USC 730.

(d) Section 110(b) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after "(b)", by striking out the last sentence, and by adding at the end thereof the following new paragraphs:

29 USC 731.

"(2) If a State receives as its Federal share under section 111(a) for any fiscal year, as a result of the maintenance of effort provisions of such section, less than 80 percent of the expenditure of such State for vocational rehabilitation services under the plan for such State approved under section 101 (including any amount expended by such State for the administration of the State plan but excluding any amount expended by such State from non-Federal sources for construction under such plan), such State shall be entitled to an additional payment for such fiscal year, subject to the same terms and conditions applicable to other payments under this part, equal to the difference between such payment under section 111(a) and an amount equal to 80 percent of such expenditure for vocational rehabilitation services.

29 USC 721.

"(3) Any payment attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.".

29 USC 740.

(e)(1) The second sentence of section 120(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "three" and inserting in lieu thereof "five".

29 USC 741.

(2) The first sentence of section 121(b) of the Rehabilitation Act of 1973 is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

STATE PLANS

29 USC 721.

SEC. 102. (a) Section 101(a) of the Rehabilitation Act of 1973 is amended—

Submittal to Commissioner.

(1) by striking out "For each fiscal year in which" and all that follows through the dash and inserting in lieu thereof the following: "In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services for a three-year period and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—";

(2) in paragraph (5)(A) by inserting after "handicaps" the first place it appears the following: "and a description of the method to be used to utilize existing rehabilitation facilities to the maximum extent feasible";

(3) in paragraph (6) by inserting "(A)" after "(6)", by inserting "and" after the semicolon the second place it appears, and by adding at the end the following new subparagraph:

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under the plan will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;";

42 USC 4151 note.

(4) in paragraph (7) by striking out "and" at the end of clause (A), and by inserting before the semicolon at the end thereof a comma and the following: "and (C) provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication";

(5) in clause (C) of paragraph (9) by striking out "under section 401" and inserting in lieu thereof "under section 13";

(6) in paragraph (11) by inserting before the semicolon the following: "(specifically including arrangements for the coordination of services to individuals eligible for services under this Act, the Education of the Handicapped Act, and the Vocational Education Act)";

20 USC 1401 note.
20 USC 2301 note.

(7) in paragraph (12) by inserting "(A)" after "(12)", by inserting after the semicolon "and", and by adding at the end the following new subparagraph:

"(B) provide (as appropriate) for entering into agreements with the operators of rehabilitation facilities for the provision of services for the rehabilitation of handicapped individuals;";

(8) in paragraph (15) by striking out "(including the State's needs for rehabilitation facilities)" and inserting in lieu thereof "(including the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency)";

(9) in paragraph (18) by inserting "personnel" before "working in the field of vocational rehabilitation" and by striking out "and" at the end thereof;

(10) in paragraph (19) by striking out the period and by inserting in lieu thereof a semicolon; and

(11) by adding at the end thereof the following new paragraphs:

Handicapped American Indians.
Post, p. 2961.

"(20) provide satisfactory assurances to the Commissioner that, except as otherwise provided in section 130, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State;

Contracts.
Post, 2993.

"(21) provide that the State agency has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for handicapped individuals under part B of title VI upon a determination by such agency that such profitmaking organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations; and

"(22) provide for the establishment and maintenance of information and referral programs (the staff of which shall include, to the maximum extent feasible, interpreters for the deaf) in sufficient numbers to assure that handicapped individuals within the State are afforded accurate vocational rehabilitation information and appropriate referrals to other Federal and State programs and activities which would benefit them.".

29 USC 721.

(b) Section 101(c) of the Vocational Rehabilitation Act of 1973 is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "(1)" before "the plan" and inserting in lieu thereof "(A)";

(3) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(4) by adding at the end the following new paragraph:

Disbursement of funds.

"(2) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of subsection (a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.".

(c) Section 101(d) of the Rehabilitation Act of 1973 is amended to read as follows: 29 USC 721.

"(d)(1) Any State which is dissatisfied with a final determination of the Commissioner under subsection (b) or (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the thirty-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by him for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which he based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

Determination appeal, petition.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under subsection (b) or (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within thirty days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction (i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c), and (ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

5 USC 701 *et seq.*

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 103. Section 102 of the Rehabilitation Act of 1973 is amended— 29 USC 722.

(1) in subsection (b) by inserting "and agree to" after "redevelop"; and

(2) by adding at the end the following new subsection:

"(d)(1) The Director of any designated State unit shall establish procedures for the review of determinations made by the rehabilitation counselor or coordinator under this section, upon the request

Review procedures.

of a handicapped individual (or, in appropriate cases, his parents or guardians). Such procedures shall include a requirement that the final decision concerning the review of any such determination be made in writing by the Director. The Director may not delegate his responsibility to make any such final decision to any other officer or employee of the designated State unit.

"(2) Any handicapped individual (or, in appropriate cases, his parent or guardian) who is not satisfied with the final decision made under paragraph (1) by the Director of the designated State unit may request the Secretary to review such decision. Upon such request the Secretary shall conduct such a review and shall make recommendations to the Director as to the appropriate disposition of the matter. The Secretary may not delegate his responsibilities under this paragraph to any officer of the Department of Health, Education, and Welfare who is employed at a position below that of an Assistant Secretary.".

SCOPE OF SERVICES; TELECOMMUNICATIONS SERVICES

29 USC 723.

SEC. 104. (a) Section 103(a)(1) of the Rehabilitation Act of 1973 is amended by inserting "mental or" before "emotional".

(b) Section 103(b) of the Rehabilitation Act of 1973 is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by (A) inserting "(including services offered at rehabilitation facilities)" after "services" and (B) striking out the period and inserting in lieu thereof ";"; and

(3) by adding at the end the following new paragraphs:

"(3) the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals; and

"(4) the use of services providing recorded material for the blind and captioned films or video cassettes for the deaf.".

CLIENT ASSISTANCE

29 USC 732.

SEC. 105. Section 112(a) of the Rehabilitation Act of 1973 is amended—

(1) by striking out "section 304" in each place it appears and inserting in lieu thereof "section 310";

(2) by striking out "up to $1,500,000" and all that follows through "dispersed regions" and inserting in lieu thereof "no less than $3,500,000 for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, to establish in geographically dispersed regions"; and

(3) by inserting before the period at the end of the first sentence the following: ", including assistance in pursuing legal, administrative, or other appropriate remedies to insure the protection of the rights of such individuals under this Act".

AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

SEC. 106. Part D of title I of the Rehabilitation Act of 1973 is amended to read as follows:

“Part D—American Indian Vocational Rehabilitation Services

“VOCATIONAL REHABILITATION SERVICES GRANTS

29 USC 750.
Grants.

“Sec. 130. (a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.

Application.

“(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

“(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

“(B) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and

“(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

25 USC 450c, 450d, 450e, 450f.

“(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Health, Education, and Welfare or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

“(3) Any application approved under this part shall be effective for not less than twelve months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).”

Ante, p. 2956.

“(d) For the purpose of computing the allotment of any State under section 110(a), the number of American Indians residing on a reservation to be served by a grant under this part shall be subtracted from the population used for such State in section 110(a)(1) as follows:

“(1) 33 percent of such American Indians in the first fiscal year during which such Indians are served by grants under this part;

“(2) 66 percent of such American Indians in the second fiscal year during which such Indians are served by grants under this part; and

“(3) 100 percent of such American Indians in the third fiscal year during which such Indians are served by grants under this part.

“Reservation.”

“(e) The term ‘reservation’ includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

“EVALUATION

Submittal to Congress.
29 USC 751.
Ante, p. 2955.

“Sec. 131. Not less than thirty months after the date of the enactment of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include—

"(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and 29 USC 721.

"(2) An assessment of the extent to which governing bodies of Indian tribes receiving grants under this part have made services under such grants available to all handicapped American Indians residing on reservations served by such grants."

DECLARATION OF PURPOSE

29 USC 760.

SEC. 107. Section 200 of the Rehabilitation Act of 1973 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 200. The purpose of this title is to—

"(1) provide for a comprehensive and coordinated approach to the administration and conduct of research, demonstration projects, and related activities for the rehabilitation of handicapped individuals, including programs designed to train persons who provide rehabilitation services and persons who conduct research, by authorizing Federal assistance in accordance with a plan for rehabilitation research developed under this title;

"(2) facilitate the distribution of information concerning developments in rehabilitation procedures, methods, and devices to rehabilitation professionals and to handicapped individuals to assist such individuals to live more independently;

"(3) improve the distribution of technological devices and equipment for handicapped individuals by providing financial support for the development and distribution of such devices and equipment; and

"(4) increase the scientific and technological information presently available in the field of rehabilitation.".

RESEARCH AUTHORIZATIONS

29 USC 761.

SEC. 108. Section 201(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"SEC. 201. (a) There are authorized to be appropriated—

National Institute of Handicapped Research.
29 USC 762.
Post, p. 2963.
29 USC 764.

"(1) for the purpose of providing for the expenses of the National Institute of Handicapped Research under section 202, other than expenses to carry out section 204, such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years; and

"(2) for the purpose of carrying out section 204, $50,000,000 for the fiscal year ending September 30, 1979, $75,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.".

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

SEC. 109. The Rehabilitation Act of 1973 is amended—

Repeal.
29 USC 774, 777c.
Post, 2974.

(1) by repealing section 304 and redesignating section 305 as section 313;

29 USC 763.

(2) by transferring section 203 to title III and redesignating such section as section 304;

29 USC 774. Repeal. 29 USC 764, 762.

(3) by repealing section 204 and redesignating section 202 as section 204; and

29 USC 761.

(4) by inserting after section 201 the following new sections:

"NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

Establishment. 29 USC 761a. *Supra.*

"SEC. 202. (a) In order to promote and coordinate research with respect to handicapped individuals and to more effectively carry out the programs under section 204, there is established within the Department of Health, Education, and Welfare a National Institute of Handicapped Research (hereinafter in this title referred to as the 'Institute'), which shall be headed by a Director (hereinafter in this title referred to as the 'Director'). In the performance of his functions, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Health, Education, and Welfare to whom the Commissioner is responsible under section 3(a) of this Act.

Responsibilities.

"(b) The Director, through the Institute, shall be responsible for—

"(1) administering the programs described in section 204;

"(2) disseminating information acquired through research funded by the Institute to other Federal, State, and local public agencies and to private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

Post, p. 2965.

"(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

"(4) disseminating educational materials to primary and secondary schools, institutions of higher education, and to public and private entities concerning how the quality of life of handicapped individuals may be improved;

"(5) conducting an education program to inform the public about ways of providing for the rehabilitation of handicapped individuals, including information relating to family care and self care;

"(6) conducting conferences, seminars, and workshops (including in-service training programs) concerning research and engineering advances in rehabilitation pertinent to the problems of handicapped individuals;

"(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title; and

"(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Social Security Administration, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, health, income, and other demographic characteristics of handicapped individuals and disseminating such reports and studies to rehabilitation professionals and others to assist in the planning and evaluation of vocational and other rehabilitation services for the handicapped.

Appointment.

"(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. In carrying out any of his functions under this section, the Director shall be guided by general policies of the National Council on the Handicapped established in title IV. The Director shall not delegate any of his functions to any officer who is not directly responsible to him.

Post, p. 2977.

"(2) There shall be a Deputy Director of the Institute (hereinafter in this section referred to as the 'Deputy Director') who shall be appointed by the Secretary. The Deputy Director shall be compensated at the rate provided for grade GS–17 of the General Schedule under section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director, exercising such powers as the Director may prescribe. In the case of any vacancy in the office of the Director, the Deputy Director shall serve as Director until a Director is appointed under paragraph (1). The position created by this paragraph shall be in addition to the number of positions placed in grade GS–17 of the General Schedule under section 5108 of title 5, United States Code.

5 USC 5332 note.

"(3) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director deems necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

5 USC 5101 *et seq.*, 5331.

Consultants.

"(4) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

Fellowships.

"(d) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows from the United States and foreign countries.

Grant review.

"(e) The Director shall, pursuant to regulations which the Secretary shall prescribe, provide for scientific review of all research grants and programs over which he has authority by utilizing, to the maximum extent possible, appropriate peer review groups established within the Institute and composed of non-Federal scientists and other experts in the rehabilitation field.

"(f) Not less than 90 percent of the funds appropriated under paragraph (2) of section 201(a) to carry out section 204 shall be expended by the Director to carry out such section through grants or contracts with qualified public or private agencies and individuals.

Ante, p. 2962.
Ante, p. 2963.

Plan, submittal to Congress.

"(g) The Director shall develop and submit to appropriate committees of the Congress within eighteen months after the effective date of this section a long-range plan for rehabilitation research which shall—

"(1) identify any research which should be conducted respecting the problems encountered by handicapped individuals in their daily activities, especially problems related to employment;

"(2) determine the funding priorities for research activities under this section and explain the basis for such priorities, including a detailed description of any new types of research recommended under this paragraph for funding; and

"(3) specify appropriate goals and timetables for activities to be conducted under this section.

Consultation.

Post, p. 2977.

Post, p. 3003.

Infra.

The plan required by this subsection shall be developed by the Director in consultation with the Commissioner, the National Council on the Handicapped established under title IV, the Commissioner of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established by section 203, and any other persons or entities the Director considers appropriate. Such plan shall be reviewed at least once every three years and may be revised at any time by the Director to the extent he considers necessary.

"(h) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

"(i)(1) The Director shall take whatever actions he considers appropriate to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director in his role of Chairman of such Committee and provide the Director with sufficient prior opportunity to comment on such project.

"(2) Any person responsible for administering any program of the National Institutes of Health, the Veterans' Administration, the National Science Foundation, the National Aeronautics and Space Administration, the Bureau of Education for the Handicapped, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this section.

"INTERAGENCY COMMITTEE

Interagency Committee on Handicapped Research.
Establishment.
29 USC 761b.

"SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Handicapped Research (hereinafter in this section referred to as the 'Committee'), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner, the Commissioner of Education, the Administrator of Veterans' Affairs, the Director of the National Institutes of Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, and the Director of the National Science Foundation.

"(2) The Committee shall meet not less than four times each year.

"(b) The Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of handicapped individuals.

Report to President and congressional committees.

"(c) The Committee, not later than eighteen months after the date of enactment of this section, and annually thereafter, shall submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of handicapped individuals.".

RESEARCH BY PRIVATE ORGANIZATIONS

Ante, p. 2963.

SEC. 110. Section 204(a) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

(1) by striking out "The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Director may";

(2) by striking out "public or nonprofit" and inserting in lieu thereof "public or private";

(3) by striking out "provision of vocational rehabilitation services" and inserting in lieu thereof "provision of vocational and other rehabilitation services";

(4) by inserting after "restorative techniques" the following: ", including basic research where related to rehabilitation techniques or services"; and

(5) by inserting ", psychiatric" after "social".

RESEARCH AND TRAINING CENTERS

Ante, p. 2963.

SEC. 111. Section 204(b) of the Rehabilitation Act of 1973 (as so redesignated by section 109(3) of this Act) is amended—

(1) by striking out "the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "the Director may";

(2) by amending paragraph (1) to read as follows:

"(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training) to assist individuals to more effectively provide rehabilitation services, (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel. The research to be carried out at each Center shall be determined on the basis of the particular needs of handicapped individuals in the geographic area served by the Center, and may include basic or applied medical rehabilitation research, research regarding the psychological and social aspects of rehabilitation, and research related to vocational rehabilitation. The Centers shall be encouraged to develop practical applications for the findings of their research. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.";

(3) in clause (A) of paragraph (2) by inserting "psychiatric," before "psychological"; and

(4) by adding at the end the following new paragraphs:

"(6) Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programing to meet the particular needs of handicapped individuals.

"(7) Conduct of a program of joint projects with the National Institutes of Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans' Administration, the Office of Education, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

Joint projects.

"(8) Conduct of a program of research related to the rehabilitation of handicapped children and of handicapped individuals who are aged sixty or older.

"(9) Conduct of a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of handicapped and severely handicapped individuals.

"(10) Conduct of a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to deaf individuals captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programing.

"(11) Conduct of a model research and demonstration program to develop innovative methods of providing services for preschool age handicapped children, including the following: (A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of five, with a special emphasis on severely handicapped children up to the age of three; (B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and (C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.

"(12) Conduct of a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and developing the employment potential of handicapped individuals, including programs which—

Model research and training program.

"(A) provide training and continuing education for personnel involved with the employment of handicapped individuals;

"(B) develop model procedures for testing and evaluating the employment potential of handicapped individuals;

"(C) develop model training programs to teach handicapped individuals skills which will lead to appropriate employment;

"(D) develop new approaches for job placement of handicapped individuals, including new followup procedures relating to such placement; and

"(E) provide information services regarding education, training, employment, and job placement for handicapped individuals.".

AUTHORIZATIONS FOR REHABILITATION FACILITIES AND VOCATIONAL TRAINING

SEC. 112. (a)(1) The first sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978" and inserting in lieu thereof "for each fiscal year ending before October 1, 1982".

29 USC 771.

29 USC 771.

(2) The last sentence of section 301(a) of the Rehabilitation Act of 1973 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1983".

29 USC 772.

(b) Section 302(a) of the Rehabilitation Act of 1973 is amended to read as follows:

Appropriation authorization.

"Sec. 302. (a) For the purpose of making grants and entering into contracts under this section, there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982.".

LOAN GUARANTEES

29 USC 773.

Sec. 113. Section 303 of the Rehabilitation Act of 1973 is amended to read as follows:

"LOAN GUARANTEES FOR REHABILITATION FACILITIES

"Sec. 303. (a) It is the purpose of this section to assist and encourage the provision of needed facilities for programs for handicapped individuals primarily served by State rehabilitation programs.

29 USC 776.

"(b) The Commissioner may, in accordance with this section and subject to section 306, guarantee the payment of principal and interest on loans made to nonprofit private entities by non-Federal lenders and by the Federal Financing Bank for the construction of rehabilitation facilities, including equipment used in their operation.

Interest payments.

"(c) In the case of a guarantee of any loan to a nonprofit private entity under this section, the Commissioner shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made, amounts sufficient to reduce by 2 percent per annum the net effective interest rate otherwise payable on such loan. Each holder of a loan which is guaranteed under this section shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(d) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed $100,000,000.

"(e)(1) The Commissioner may not approve a loan guarantee for a project under this section unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this section.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this section the amount of any payment made pursuant to such guarantee, unless the Commissioner for good cause waives such right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this section (including terms and conditions imposed under paragraph (1)) may be modified by the Commissioner to the extent he considers consistent with the interests of the United States.

"(C) Any loan guarantee made by the Commissioner under this section shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this section shall be subject to such further terms and conditions as the Commissioner considers necessary to assure that the purposes of this section will be achieved.

Loan guarantee fund, establishment.

"(f) (1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to discharge his responsibilities under loan guarantees issued by him under this section; and

"(B) for payment of interest under subsection (c) on loans guaranteed under this section.

Appropriation authorization.

There are authorized to be appropriated such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Commissioner in connection with loan guarantees under this section and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2) (A) If at any time the sums in the fund are insufficient to enable the Commissioner—

"(i) to make payments of interest under subsection (c); or

"(ii) to otherwise comply with guarantees under this section of loans to nonprofit private entities;

Treasury notes or obligations.

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

Interest rate.

"(B) Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

"(C) The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph, and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as a public debt transaction of the United States.

31 USC 774.

"(D) Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Commissioner from the fund.".

TRAINING

Ante, p. 2963.

SEC. 114. Section 304 of the Rehabilitation Act of 1973 (as so redesignated by section 109(2) of this Act) is amended—

(1) in subsection (a)—

(A) by striking out "The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to" and inserting in lieu thereof "The Commissioner may";

(B) by inserting ", medical, social, and psychological rehabilitation" after "vocational"; and

(C) by striking out "and" before "in performing" and inserting in lieu thereof the following: ", including personnel specially trained in providing employment assistance to handicapped individuals through job development and job placement services, and personnel trained";

(2) in subsection (b)—

(A) by inserting ", rehabilitation psychiatry" after "work"; and

(B) by inserting after "blind and deaf individuals," the following: "specialized personnel in providing job development and job placement services for handicapped individuals,"; and

(3) by adding at the end the following new subsections:

"(c) The Commissioner shall evaluate the impact of the training programs conducted under this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

Interpreters for the deaf, grants.

"(d)(1) For the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals, the Secretary, through the Office of Information and Resources for the Handicapped, may award grants under this section to any public or private nonprofit agency or organization to establish interpreter training programs or to provide financial assistance for ongoing interpreter training programs. Not more than twelve programs shall be established or assisted by grants under this section. The Secretary shall award grants for programs in such geographic areas throughout the United States as the Secretary considers appropriate to best carry out the purpose of this section. Priority shall be given to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

Application.

"(2) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—

"(A) describe the manner in which an interpreter training program would be developed and operated during the five-year period following the award of any grant under this section;

"(B) demonstrate the applicant's capacity or potential for providing training for interpreters for deaf individuals;

"(C) provide assurances that any interpreter trained or retrained under such program shall meet such minimum standards of competency as the Secretary may establish for purposes of this section;

"(D) provide assurances that (i) to the extent appropriate, the applicant shall provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and (ii) funds for such in-service training shall be provided under this section only through funds appropriated under the Education for All Handicapped Children Act; and

20 USC 1401 note.

"(E) contain such other information as the Secretary may require.

"(d) There are authorized to be appropriated to carry out this section $34,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, $45,000,000 for the fiscal year ending September 30, 1981, and $50,000,000 for the fiscal year ending September 30, 1982. There are further authorized to be appropriated for each such fiscal year such additional sums as the Congress may determine to be necessary to carry out this section.".

Appropriation authorization.

COMPREHENSIVE CENTERS

SEC. 115. (a) The Rehabilitation Act of 1973 is amended by inserting after section 304 the following new section:

Ante, p. 2963.

"COMPREHENSIVE REHABILITATION CENTERS

"SEC. 305. (a)(1) In order to provide a focal point in communities for the development and delivery of services designed primarily for handicapped persons, the Commissioner may make grants to any designated State unit to establish and operate comprehensive rehabilitation centers. The centers shall be established in order to provide a broad range of services to handicapped individuals, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as to provide facilities for recreational activities.

Grants.
29 USC 775.

"(2) To the maximum extent practicable, such centers shall provide, upon request, to local governmental units and other public and private nonprofit entities located in the area such information and technical assistance (including support personnel such as interpreters for the deaf) as may be necessary to assist those entities in complying with this Act, particularly the requirements of section 504.

29 USC 794.

"(b) No grant may be made under this section unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

Application.

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsections (c) and (d); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c)(1) The designated State unit may—

"(A) in accordance with subsection (e) make grants to units of general purpose local government or to other public or nonprofit private agencies or organizations and may make contracts with any agency or organization to pay not to exceed 80 percent of the cost of—

"(i) leasing facilities to serve as comprehensive rehabilitation centers;

"(ii) expanding, remodeling, or altering facilities to the extent necessary to adapt them to serve as comprehensive rehabilitation centers;

"(iii) operating such centers; or

"(iv) carrying out any combination of the activities specified in this subparagraph; and

"(B) directly carry out the activities described in subparagraph (A), except that not more than 80 percent of the costs of providing any comprehensive rehabilitation center may be provided from funds under this section.

"(3) Funds made available to any designated State unit under this section for the purpose of assisting in the operation of a comprehensive rehabilitation center may be used to compensate professional and technical personnel required to operate the center and to deliver services in the center, and to provide equipment for the center.

"(d)(1) The designated State unit may approve a grant or enter into a contract under subsection (c) only if the application for such grant or contract meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) and if the application contains assurances that any facility assisted by such grant or contract shall be in reasonably close proximity to the majority of individuals eligible to use the comprehensive rehabilitation center.

29 USC 776.

"(2) Any designated State unit which directly provides for comprehensive rehabilitation centers under subsection (c)(1)(B) shall use funds under this section in the same manner as any other grant recipient is required to use such funds.

"(e) If within 20 years after the completion of any construction project for which funds have been paid under this section—

"(1) the owner of the facility ceases to be a public or nonprofit private agency or organization, or

"(2) the facility ceases to be used for the purposes for which it was leased or constructed (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so),

the United States shall be entitled to recover from the grant recipient or other owner of the facility an amount which bears the same ratio to the value of the facility (or so much thereof as constituted an approved project or projects) at the time the United States seeks recovery as the amount of such Federal funds bore to the cost of renovating the facility under subsection (c)(1)(A)(ii). Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(f) The requirements of section 306 shall not apply to funds allotted under this section, except that subsections (g) and (h) of such section shall be applicable with respect to such funds.

Appropriation authorization.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for the three succeeding fiscal years.".

29 USC 776.

Supra.

(b) Section 306(a) of the Rehabilitation Act of 1973 is amended by inserting in the first sentence before the period ", except as otherwise provided in section 305(g)".

SPECIAL FEDERAL RESPONSIBILITIES

29 USC 770.

SEC. 116. Title III of the Rehabilitation Act of 1973 is amended—

(1) by inserting after the title heading the following:

"PART A—CONSTRUCTION AND TRAINING PROGRAMS"

and

(2) by adding after section 306 the following new part:

"PART B—SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) For the purpose of carrying out this part (other than section 313), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending before October 1, 1982. 29 USC 777.

"(b) Of the amounts appropriated for any fiscal year under subsection (a), 5 percent of such amount shall be available in such fiscal year only for the purpose of making grants under section 312. There is further authorized to be appropriated for each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under section 312, an amount of $5,000,000 for each such fiscal year.

"SPECIAL DEMONSTRATION PROGRAMS

"SEC. 311. (a) Subject to the provisions of section 306, the Commissioner may make grants to States and to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstrations (including related research and evaluation) for— 29 USC 777a. 29 USC 776.

"(1) establishing programs and, where appropriate, constructing facilities for providing vocational rehabilitation services, which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps), including individuals with spinal cord injuries and blind or deaf individuals, irrespective of age or vocational potential, who can benefit from comprehensive services;

"(2) applying new types or patterns of services or devices for handicapped individuals (including programs for providing handicapped individuals, or other individuals in programs servicing handicapped individuals, with opportunities for new careers); and

"(3) operating programs and, where appropriate, renovating and constructing facilities to demonstrate methods of making recreational activities fully accessible to handicapped individuals.

"(b) Any project or demonstration assisted by a grant under this section which provides services to individuals with spinal cord injuries shall— **Individuals with spinal cord injuries.**

"(1) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(2) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(3) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(4) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"MIGRATORY WORKERS

Grants.
29 USC 777b.
29 USC 776
29 USC 721.

"SEC. 312. The Commissioner, subject to the provisions of section 306, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, who are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This section shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

20 USC 241a note.
42 USC 2861.
42 USC 247d.
7 USC 2041 note

"HELLEN KELLER NATIONAL CENTER

Establishment.
29 USC 777c.

"SEC. 313. (a) The purpose of this section is to provide for the establishment and operation of the Hellen Keller National Center for Deaf-Blind Youths and Adults. Any funds appropriated under this part for construction of the Center shall remain available until expended.

"(b) In order—

"(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

"(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

"(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

Agreements.

the Secretary, subject to the provisions of section 306, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the Helen Keller National Center for Deaf-Blind Youths and Adults.

"(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of the Helen Keller National Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

"(d) To the extent feasible the Helen Keller National Center for Deaf-Blind Youths and Adults shall seek to recover from States, private insurers, and other participating public and private agencies the costs of services provided to individuals by the Center.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year beginning before October 1, 1982.

Appropriation authorization.

"READER SERVICES FOR THE BLIND

"SEC. 314. (a) The Commissioner may award grants to States or to private nonprofit agencies or organizations of national scope (as so determined by the Commissioner) to—

Grants.
29 USC 777d.

"(1) provide reading services to blind persons who are not otherwise eligible for such services through other State or Federal programs; and

"(2) expand the quality and scope of reading services available to blind persons, and to assure to the maximum extent possible that the reading services provided under this Act will meet the reading need of blind persons attending institutions providing elementary, secondary, or post-secondary education, and will be adequate to assist blind persons to obtain and continue in employment.

Any State which receives a grant under this section shall administer the reading services for which such grant is awarded through the designated State unit of the State.

"(b) No grant shall be awarded under this section unless the applicant has submitted an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.

Application.

"(c) For purposes of this section, the term 'reading services' means—

"Reading services."

"(1) the employment of persons who, by reading aloud, can afford blind persons ready access to printed information;

"(2) the transcription of printed information into braille or sound recordings if such transcription is performed pursuant to individual requests from blind persons for such services;

"(3) the storage and distribution of braille materials and sound recordings;

"(4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of braille materials and sound recordings;

"(5) the purchase, storage, and distribution of equipment to blind persons to provide them with individual access to printed materials by mechanical or electronic means; and

"(6) radio reading services for blind persons.

"INTERPRETER SERVICES FOR THE DEAF

"SEC. 315. (a) The Commissioner may make grants to designated State units to establish within each State a program of interpreter services (including interpreter referral services) which shall be made

Grants.
29 USC 777e.

available to deaf individuals and to any public agency or private nonprofit organization involved in the delivery of assistance or services to deaf individuals.

Application.

"(b) No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such times, and in accordance with such procedures as the Commissioner may require. Such application shall—

"(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum number of deaf individuals feasible;

"(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 101(a)(22);

Ante, p. 2958.

"(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

"(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

"(5) contain such other information as the Secretary may require.

"(c) Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(d) Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to deaf individuals who are receiving rehabilitation services under any other provision of this Act.".

"SPECIAL RECREATIONAL PROGRAMS

Grants.
29 USC 777f.

"SEC. 316. The Commissioner, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 117. The Rehabilitation of 1973 is amended by striking out title IV and inserting in lieu thereof the following new title: 29 USC 701 note.

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"SEC. 400. (a) There is established with the Department of Health, Education, and Welfare a National Council on the Handicapped (hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals. Membership. 29 USC 780.

"(b)(1) Members of the National Council shall be appointed to serve for terms of three years, except that of the members first appointed— Term.

"(A) five shall serve for terms of one year,

"(B) five shall serve for terms of two years, and

"(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

"(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall— 29 USC 781.

"(1) establish general policies for, and review the operation of, the National Institute of Handicapped Research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

"(4) review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals and persons with developmental disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act, in order to assess the effectiveness of such policies, programs, and activities in meeting the needs of handicapped individuals;

Post, p. 3003.

"(5) make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve research concerning handicapped individuals, the administration of services for handicapped individuals, and the methods of collecting and disseminating the findings of such research, and make recommendations for facilitating the implementation of programs based upon such findings; and

Report to Secretary, Congress, and President.

"(6) submit not later than March 31 of each year (beginning in 1980) an annual report to the Secretary, the Congress, and the President, containing (A) a statement of the current status of research concerning the handicapped in the United States, (B) a review of the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research, and (C) such recommendations respecting the items described in clauses (A) and (B) as the National Council considers appropriate.

COMPENSATION OF NATIONAL COUNCIL MEMBERS

29 USC 782.

"SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the National Council.

"(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

"(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"STAFF OF NATIONAL COUNCIL

29 USC 783.

5 USC 5101 *et seq.*

5 USC 5331.

"SEC. 403. (a) The National Council may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, up to seven technical and professional employees to assist the National Council to carry out its duties.

"(b) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code).

"(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

General Services Administrator, administrative support.

"ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

"Sec. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title.

Bylaws and rules.
29 USC 784.

"(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

"(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

"(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary.".

29 USC 785.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Sec. 118. (a)(1) Section 502(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"Sec. 502. (a)(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the 'Board') which shall be composed as follows:

Establishment.
29 USC 792.

"(A) Eleven members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.

Membership.

"(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

"(i) Department of Health, Education, and Welfare.
"(ii) Department of Transportation.
"(iii) Department of Housing and Urban Development.
"(iv) Department of Labor.
"(v) Department of the Interior.
"(vi) Department of Defense.
"(vii) Department of Justice.
"(viii) General Services Administration.
"(ix) Veterans' Administration.
"(x) United States Postal Service.

The President shall appoint the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.

"(2) The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall

Term.

serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

"(3) If any appointed member of the Board becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the date he becomes such an employee.

"(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.

Compensation.

"(5)(A) Members of the Board who are not regular full-time employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.".

29 USC 792.

42 USC 4151 note.

(b)(1) Section 502(b)(1) of the Rehabilitation Act of 1973 is amended to read as follows: "(1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section;".

(2) Section 502(b)(2) of the Rehabilitation Act of 1973 is amended by inserting "communication," before "and attitudinal", and by inserting "telecommunication devices," before "public buildings"; and

(3) Section 502(b) of the Rehabilitation Act of 1973 is amended by striking out "and" at the end of clause (5), by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new clauses: "(7) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968; and (8) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.".

(c)(1) The first sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "or contracts with", and by inserting after "organizations" "or contracts with private nonprofit or forprofit organizations".

(2) The second sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of subsection (e), the".

(3) The last sentence of section 502(d) of the Rehabilitation Act of 1973 is amended by inserting "or public conveyance or rolling stock"

after "building" and by striking out "prescribed pursuant to the Act cited in subsection (b) of this section" and inserting in lieu thereof "enforced under this section".

(4) Section 502(d) of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sentence: Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

29 USC 792.

5 USC 701 *et seq.*

(5) Section 502(d) of the Rehabilitation Act of 1973 is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

Civil action.

"(2) The executive director is authorized, at the direction of the Board—

"(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any, final order of the Board under this subsection; and

"(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions which related to this section or to the Architectural Barriers Act of 1968.

42 USC 4151 note.

Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the executive director may appear for and represent the Board in any civil litigation brought under this section.".

Development of standards, consultation.

"(3) The Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect overcoming to architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.".

(d) Section 502(e) of the Rehabilitation Act of 1973 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.

"(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.".

(e) Section 502 of the Rehabilitation Act of 1973 is amended by striking out subsection (h) and inserting in lieu thereof the following new subsections:

Report to President and Congress.

"(h)(1) Within one year following the enactment of this subsection, the Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide handcapped individuals with full access to all programs and activities receiving Federal assistance.

Grants or contracts.

"(2) The Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c). The Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Board under a grant or contract to provide the Board with such cost assessments, the Board shall take all necessary steps to validate the accuracy of any such findings.

Appropriation authorization.

"(i) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as may be necessary for each fiscal year ending before October 1, 1982, but in no event shall the amount appropriated for any one fiscal year exceed $3,000,000.".

NONDISCRIMINATION UNDER FEDERAL PROGRAMS AND ACTIVITIES

29 USC 794.

SEC. 119. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) in the section heading by inserting "AND PROGRAMS" after "GRANTS"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.".

Regulations.
Proposals, copies to congressional committees.

NONDISCRIMINATION PROVISIONS; INTERAGENCY COUNCIL; SECRETARIAL DUTIES

SEC. 120. (a) Title V of the Rehabilitation Act of 1973 is amended by adding at the end thereof the following new sections:

"REMEDIES AND ATTORNEYS' FEES

29 USC 794a.
29 USC 791.

"SEC. 505. (a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706 (f) through 706 (k) (42 U.S.C. 2000e-5 (f) through (k)), shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

"(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.

42 USC 2000d.
29 USC 794.

"(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

"SECRETARIAL RESPONSIBILITIES

"SEC. 506. (1) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

29 USC 794b.

"(A) to persons operating rehabilitation facilities; and

"(B) with the concurrence of the Board established by section 502, to any public or nonprofit agency, institution, or organization;

Ante, p. 2979.

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 502(c)(1).

"(2) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

Experts or consultants, compensation.

"(3) The Secretary, with the concurrence of the Board and the President may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this paragraph until a study demonstrating the need for such assistance has been conducted and submitted under section 502(h)(2) of this title."

Ante, p. 2981.

"(4) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.".

Appropriation authorization.

"INTERAGENCY COORDINATING COUNCIL

"SEC. 507. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the 'Council') composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before

Establishment.
Membership.
29 USC 794c.

Report to President and Congress.

July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.”.

APPLICATION OF OTHER LAWS

29 USC 701 note.

SEC. 121. The Rehabilitation Act of 1973 is amended by inserting after section 10 the following new section:

“APPLICATION OF OTHER LAWS

29 USC 710.
42 USC 4251 note.
48 USC 1469a.

“SEC. 11. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.”.

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 122. (a) The Rehabilitation Act of 1973 is amended—

29 USC 701.

(1) by amending section 2 to read as follows:

“DECLARATION OF PURPOSE

“SEC. 2. The purpose of this Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living.”.

29 USC 702.

(2) in section 3(a) by inserting “and part A of title VI” after “titles IV and V”, and by inserting at the end thereof the following: “Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of his functions under this Act, the Commissioner shall be guided by general policies of the National Council on the Handicapped established under title IV of this Act.”;

Ante, p. 2977.

(3) by striking out section 3(b) and redesignating section 3(c) as 3(b);

29 USC 706.

(4) in section 7(3) by striking out “and the initial equipment” and all that follows through the period and inserting in lieu thereof “and may include such additional equipment and staffing as the Commissioner considers appropriate.”;

(5) in section 7(4)(B) by inserting after “medical” comma and the word “psychiatric”;

(6) in section 7(6)—

(A) by striking out “The term” and inserting in lieu thereof: “(A) Except as otherwise provided in subparagraph (B), the term”;

“(B) by striking out “(A)” after “individual who” and inserting in lieu thereof “(i)” and by striking out “(B)” after “and” and inserting in lieu thereof “(ii)”; and

(C) by striking out the last sentence and by adding at the end the following new subparagraph:

“Handicapped individual.”
Ante, p. 2977.
29 USC 790.

“(B) Subject to the second sentence of this subparagraph, the term ‘handicapped individual’ means, for purposes of titles IV and V of this Act, any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. For purposes of sections 503 and 504 as such sections relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.";

29 USC 793, 794.

(7) in section 7(10)—

29 USC 706.

(A) by inserting ", psychiatric" after "medical" in subparagraph (A) thereof; and

(B) by inserting "psychiatric," before "psychological" in subparagraph (B) thereof;

(8) in section 7 by (A) redesignating paragraphs (3) through (14) as paragraphs (4) through (15), respectively and (B) inserting after paragraph (2) the following new paragraph:

"(3) The term 'designated State units' means (A) any State agency unit required under section 101(a)(2)(A) of this Act, or (B) in cases in which no such unit is so required, the State agency described in section 101(a)(B)(i) of this Act."

"Designated State units."
29 USC 721.

(9) in section 10 by inserting before the period at the end thereof the following: "except that this section shall not be construed to limit or reduce fees for services rendered by rehabilitation facilities";

29 USC 709.

(10) by adding after section 11 (as added by section 121 of this Act) the following new sections:

Ante, p. 2984.

"ADMINISTRATION OF THE ACT

SEC. 12. (a) In carrying out the purposes of this Act, the Commissioner may—

29 USC 711.

"(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

"(2) provide short-term training and technical instruction;

"(3) conduct special projects and demonstrations;

"(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

"(5) provide staff and other technical assistance to the National Council on the Handicapped.

"(b) In carrying out his duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

"(c) The Commissioner may promulgate such regulations as he considers appropriate to carry out his duties under this Act.

Regulations.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

Appropriation authorization.

"REPORTS

"SEC. 13. Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President for transmittal to the Congress a full and complete report

Submittal to President and Congress.
29 USC 712.

on the activities carried out under this Act. Such annual reports shall include statistical data reflecting services and activities provided individuals during the preceding fiscal year.

"EVALUATION

29 USC 713.

"SEC. 14. (a) The Secretary shall evaluate the impact of all programs authorized by this Act, their general effectiveness in achieving stated goals, and their effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

"(b) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

Evaluation results, annual publication and availability.

"(c) The Secretary shall annually publish summaries of the results of evaluative research and evaluation of program and project impact and effectiveness, the full contents of which shall be available to the Congress and the public.

"(d) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(e) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

Appropriation authorization.

"(f) There are authorized to be appropriated to carry out this section such sums as may be necessary.

"INFORMATION CLEARINGHOUSE

29 USC 714.

"SEC. 15. (a) The Secretary may establish a central clearinghouse for information and resource availability for handicapped individuals which shall provide information and data regarding (1) the location, provision, and availability of services and programs for handicapped individuals, (2) research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and (3) the current numbers of handicapped individuals and their needs. The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

Information and data retrieval system.

"(b) The Commissioner may assist the Secretary to develop within the Department of Health, Education, and Welfare a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

"(c) Any office established to carry out the provisions of this section shall be known as the "Office of Information and Resources for the Handicapped".

Appropriation authorization.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

“TRANSFER OF FUNDS

Restriction.
29 USC 715.

“SEC. 16. No funds appropriated under this Act for any research program or activity may be used for any purpose other than that for which the funds were specifically authorized.”.

(b) Title I of the Rehabilitation Act of 1973 is further amended—

29 USC 721, 722, 730–732, 740, 741.

(1) in parts A through C by striking out “Secretary” in each place it appears and inserting in lieu thereof “Commissioner”; and

29 USC 741.

(2) in section 121(a) by inserting after the first sentence the following new sentence: “Payments may also be made under this section for the costs of the construction of facilities to be used in providing services under such State plan if provision for such construction is included in such State plan.”.

(c) Title III of the Rehabilitation Act of 1973 is further amended—

29 USC 770.

(1) in section 300—

(A) by adding before the semicolon in paragraph (1) the following: “and authorize such staffing as the Commissioner deems appropriate”;

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4);

29 USC 771.

(2) in section 301 by striking out “initial” each place it appears and by striking out “Secretary” in each place it appears and inserting lieu thereof “Commissioner”;

29 USC 772.

(3) in section 302 by striking out “Secretary” in each place it appears and inserting in lieu thereof “Commissioner”;

29 USC 776.

(4) in subsections (a), (c), (e), (f), and (i) of section 306 by striking out “Secretary” in each place it appears and inserting in lieu thereof “Commissioner”;

(5) by amending paragraph (3) of section 306(b) to read as follows:

Annual report.

“(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Commissioner, which the Commissioner shall submit to the Secretary for inclusion (in summarized form) in the annual report submitted to the Congress under section 13;”;

Ante, p. 2985.

(6) in paragraph (4) of section 306(b) by striking out “Secretary” where it first occurs and inserting in lieu thereof “Commissioner”; and

29 USC prec. 770.

(7) by striking out “SPECIAL FEDERAL RESPONSIBILITIES” in the title heading and inserting in lieu thereof “SUPPLEMENTARY SERVICES AND FACILITIES”.

(d) Title V of the Rehabilitation Act of 1973 is further amended—

29 USC 793.
29 USC 706.

(1) in section 503(a), by striking out “as defined in section 7(6)” and inserting in lieu thereof “as defined in section 7(7); and

29 USC 794.

(2) in section 504, by striking out “as defined in section 7(6)” and inserting in lieu thereof “as defined in section 7(7)”.

42 USC 6862.

(e) Section 412 of the Energy Conservation and Production Act is amended by striking out “as defined in section 7(6)” and inserting in lieu thereof “as defined in section 7(7)”.

(f) Section 1904 of title 38, United States Code, is amended—

(1) by striking out “section 202(b)(2)” and inserting in lieu thereof “and section 204(b)(2)”; and

(2) by striking out “, and section 405” and all that follows through “activities)”.

29 USC 701 note.

(g) The table of contents for the Rehabilitation Act of 1973 is amended—

(1) by inserting after the item relating to section 10 the following new items:

"Sec. 11. Application of other laws.
"Sec. 12. Administration of the Act.
"Sec. 13. Reports.
"Sec. 14. Evaluation.
"Sec. 15. Information clearinghouse.
"Sec. 16. Transfer of funds.";

(2) by striking out the items relating to part D of title I and section 130 and inserting in lieu thereof the following:

"PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

"Sec. 130. Vocational rehabilitation services grants.
"Sec. 131. Evaluation.

(3) by striking out the items relating to titles II and III and to sections 200 through 204 and 300 through 306 and inserting in lieu thereof the following:

"TITLE II—RESEARCH

"Sec. 200. Declaration of purpose.
"Sec. 201. Authorization of appropriations.
"Sec. 202. National Institute of Handicapped Research.
"Sec. 203. Interagency committee.
"Sec. 204. Research.

"TITLE III—SUPPLEMENTARY SERVICES AND FACILITIES

"PART A—MISCELLANEOUS PROGRAMS

"Sec. 300. Declaration of purpose.
"Sec. 301. Grants for construction of rehabilitation facilities.
"Sec. 302. Vocational Training Services for handicapped individuals.
"Sec. 303. Loan guarantees for rehabilitation facilities.
"Sec. 304. Training.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 313. Helen Keller National Center.
"Sec. 314. Reader services for the blind.
"Sec. 315. Interpreter services for the deaf.
"Sec. 316. Special Recreational Programs."

(4) by striking out the items relating to title IV and sections 400 through 407 and inserting in lieu thereof the following:

"TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

"Sec. 400. Establishment of National Council on the Handicapped.
"Sec. 401. Duties of National Council.
"Sec. 402. Compensation of National Council members.
"Sec. 403. Staff of National Council.
"Sec. 404. Administrative powers of National Council.
"Sec. 405. Authorization of appropriations.";

and

(5) by adding at the end of the items relating to title V the following new items:

"Sec. 505. Remedies and attorneys' fees.
"Sec. 506. Secretarial responsibilities.
"Sec. 507. Interagency Coordinating Council.".

TITLE II—COMMUNITY SERVICE PILOT PROGRAMS; PROJECTS WITH INDUSTRY

ESTABLISHMENT OF PROGRAMS

SEC. 201. The Rehabilitation Act of 1973 is amended by adding at the end thereof the following new title:

29 USC 701 note.

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Employment Opportunities for Handicapped Individuals Act'.

Employment Opportunities for Handicapped Individuals Act.
29 USC 795 note.

"PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"ESTABLISHMENT OF PILOT PROGRAM

"SEC. 611. (a) In order to promote useful opportunities in community service activities for handicapped individuals who have poor employment prospects, the Secretary of Labor (hereinafter in this part referred to as the 'Secretary') is authorized to establish a community service employment pilot program for handicapped individuals. For purposes of this part, the term 'eligible individuals' means persons who are handicapped individuals (as defined in section 7(7) of this Act) and who are referred to programs under this part by designated State units.

29 USC 795.

"Eligible individuals."
29 USC 706.

"(b)(1) The Secretary may enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to carry out the pilot program referred to in subsection (a). Such agreements may include provisions consistent with subsection (c) for the payment of the costs of projects developed by such organizations and agencies in cooperation with the Secretary. No payment shall be made by the Secretary toward the cost of any such project unless the Secretary determines that:

Agreements.

"(A) Such project will provide employment only for eligible individuals, except that if eligible individuals are not available to serve as technical, administrative, or supervisory personnel for a project then such personnel may be recruited from among other individuals.

"(B) Such project will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities.

"(C) Such project will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, except for projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

26 USC 501.

"(D) Such project will contribute to the general welfare of the community in which eligible individuals are employed under such project.

"(E) Such project (i) will result in an increase in employment opportunities over those opportunities which would otherwise be available, (ii) will not result in any displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits), and (iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(F) Such project will not employ any eligible individual to perform work which is the same or substantially the same as that performed by any other person who is on layoff from employment with the agency or organization sponsoring such project.

"(G) Such project will utilize methods of recruitment and selection (including the listing of job vacancies with the State agency units designated under section 101(a)(2)(A) to administer vocational rehabilitation services under this Act) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project. 29 USC 721.

"(H) Such project will provide for (i) such training as may be necessary to make the most effective use of the skills and talents of individuals who are participating in the project, and (ii) during the period of such training, a reasonable subsistence allowance for such individuals and the payment of any other reasonable expenses related to such training.

"(I) Such project will provide safe and healthy working conditions for any eligible individual employed under such project and will pay any such individual at a rate of pay not lower than the rate of pay described in paragraph (2).

"(J) Such project will be established or administered with the advice of (i) persons competent in the field of service in which employment is being provided, and (ii) persons who are knowledgeable with regard to the needs of handicapped individuals.

Work-related expenses.

"(K) Such project will pay any reasonable costs for work-related expenses, transportation, and attendant care incurred by eligible individuals employed under such project in accordance with regulations prescribed by the Secretary.

Placement services.

"(L) Such project will provide appropriate placement services for employees under the project to assist them in locating unsubsidized employment when the Federal assistance for the project terminates.

Rate of pay.

"(2) The rate of pay referred to in subparagraph (I) of paragraph (1) is the highest of the following:

"(A) the prevailing rate of pay for persons employed in similar occupations by the same employer.

"(B) The minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 if such employee were not exempt from such Act under section 13 thereof. 29 USC 201. 29 USC 213.

"(C) The State or local minimum wage for the most nearly comparable covered employment.

The Department of Labor shall not issue any certificate of exemption under section 14(c) of the Fair Labor Standards Act of 1938 with respect to any person employed in a project under this section. 29 USC 214.

"(c)(1) The Secretary may pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b). Notwithstanding the preceding sentence, the Secretary may pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Director of the Community Services Administration.

Project costs, consultation.

"(2) The non-Federal share of any project under this part may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

Non-Federal share.

"(d) Payments under this part may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"ADMINISTRATION

Consultation with State unit.
29 USC 795a.

"Sec. 612. (a) In order to effectively carry out the provisions of this part, the Secretary shall, through the Commissioner of the Rehalibitation Services Administration, consult with any designated State unit with regard to—

"(1) the localities in which community service projects of the type authorized by this part are most needed;

"(2) the employment situations and types of skills possessed by eligible individuals in such localities; and

"(3) potential projects suitable for funding in such localities.

"(b) The Secretary shall coordinate the pilot program established under this part with programs authorized under the Emergency Jobs and Unemployment Assistance Act of 1974, the Comprehensive Employment and Training Act of 1973, the Community Services Act of 1974, and the Emergency Employment Act of 1971. Appropriations under this part may not be used to carry out any program under the Acts referred to in the preceding sentence.

29 USC 801 note.
29 USC 801 note.
42 USC 2701 note.
42 USC 4871 note.

"(c) In carrying out this part, the Secretary may, with the consent of any other Federal, State, or local agency, use the services, equipment, personnel, and facilities of such agency with or without providing such agency with reimbursement and may use the services, equipment, and facilities of any other public or private entity on a similar basis.

"(d) Within one hundred and eighty days after the effective date of this part, the Secretary shall issue and publish in the Federal Register such regulations as may be necessary to carry out this part.

Regulations, publication in Federal Register.

"(e) The Secretary shall not delegate any function of the Secretary under this part to any other department or agency of the Federal Government.

"PARTICIPANTS NOT FEDERAL EMPLOYEES

29 USC 795b.

"Sec. 613. (a) Eligible individuals who are employed in any project funded under this part shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

5 USC 2101.

Contracts.

"(b) No contract shall be entered into under this part with a contractor who is, or whose employees are, under State law, exempted from operation of any State workmen's compensation law generally applicable to employees, unless the contractor shall undertake to provide for persons to be employed under such contract, through insurance by a recognized carrier or by self-insurance authorized by State law, workmen's compensation coverage equal to that provided by law for covered employment.

"(c) No part of the wages, allowances, or reimbursement for transportation and attendant care costs made available to an eligible individual employed in any project funded under this part shall be treated as income or benefits for the purpose of any other program or provision of State or Federal law, unless the Secretary makes a case by case determination that disallowance of such income or benefits is inequitable or does not carry out the purposes of this title.

"INTERAGENCY COOPERATION

29 USC 795c.

"SEC. 614. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner of the Rehabilitation Services Administration before establishing rules or general policy in the administration of this part.

"(b) The Secretary shall consult and cooperate with the Director of the Community Services Administration, the Secretary of Health, Education, and Welfare, and the heads of other Federal agencies carrying out related programs, in order to achieve maximum coordination between such programs and the program established under this part. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this part and in identifying individuals eligible for employment in projects assisted under this part.

Information, dissemination.

"EQUITABLE DISTRIBUTION OF ASSISTANCE

Grants or contracts.
29 USC 795d.

"SEC. 615. (a)(1) Preference in awarding grants or contracts under this part shall be given to organizations of proven ability in providing employment services to handicapped individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts among the States, taking into account the needs of underserved States.

State projects, allotment of funds.

"(2) The Secretary shall allot for projects within each State the sums appropriated for any fiscal year under section 617 so that each State will receive an amount which bears the same ratio to such sums as the population of the State bears to the population of all the States.

"(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, and (2) the relative distribution of such individuals residing in rural and urban areas within the State.

"DEFINITIONS

"SEC. 616. For purposes of this part— 29 USC 795e.

"(1) the term 'community service' means social, health, welfare, and educational services, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

"(2) the term 'pilot program' means the community service employment program for handicapped individuals established under this part; and

"(3) the term 'attendant care' means interpreter services for the deaf, reader services for the blind, and services provided to assist mentally retarded individuals to perform duties of employment.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 617. There are authorized to be appropriated to carry out the purposes of this part $35,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, $75,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982. 29 USC 795f.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"PROJECTS WITH INDUSTRY

Jointly financed projects, consultation and agreements.
29 USC 795g.

"SEC. 621. (a)(1) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may enter into agreements with individual employers and other entities to establish jointly financed projects which—

"(A) shall provide handicapped individuals with training and employment in a realistic work setting in order to prepare them for employment in the competitive market;

"(B) shall provide handicapped individuals with such supportive services as may be required to permit them to continue to engage in the employment for which they have received training under this section; and

"(C) shall, to the extent appropriate, expand job opportunities for handicapped individuals by providing for (i) the development and modification of jobs to accommodate the special needs of such individuals, (ii) the distribution of special aids, appliances, or adapted equipment to such individuals, (iii) the establishment of appropriate job placement services, and (iv) the modification of any facilities or equipment of the employer which are to be used primarily by handicapped individuals.

"(2) Any agreement under this subsection shall be jointly developed by the Commissioner, the prospective employer, and, to the extent practicable, the appropriate designated State unit and the handicapped individuals involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

Minimum wage.
Review.

"(b) No payment shall be made by the Commissioner under any agreement with an employer entered into under subsection (a) unless such agreement—

"(1) provides assurances that handicapped individuals placed with such employer shall receive at least the applicable minimum wage;

"(2) specifies that the Commissioner, together with the designated State unit, has the right to review any termination of employment, and that, in the event such termination occurs less than three years after the date of the commencement of employment of the handicapped individual involved, the Commissioner shall be entitled to require the repayment of a portion of the funds made available to the employer if such termination is without reasonable cause, as determined by the Commissioner in consultation with such designated State unit; and

"(3) provides assurances that any handicapped individual placed with such employer shall be afforded terms and benefits of employment equal to those which are afforded to other employees of such employer, and that such handicapped individuals shall not be unreasonably segregated from other employees.

"(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

"BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

Grants and contracts, consultation.
29 USC 795h.
Regulations.

"SEC. 622. The Commissioner, in consultation with the Secretaries of Labor and Commerce, may make grants to, or enter into contracts with, handicapped individuals to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated State units, of individuals eligible to participate in any program under this section.

"AUTHORIZATION OF APPROPRIATIONS

29 USC 795i.

"SEC. 623. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for each fiscal year beginning before October 1, 1982.

CONFORMING AMENDMENTS

SEC. 202. (a) The table of contents for the Rehabilitation Act of 1973, as amended by section 120(c)(6), is further amended by adding at the end thereof the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 601. Short title.

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR HANDICAPPED INDIVIDUALS

"Sec. 611. Establishment of program.
"Sec. 612. Administration.
"Sec. 613. Participants not Federal employees.
"Sec. 614. Interagency cooperation.
"Sec. 615. Equitable distribution of assistance.
"Sec. 616. Definitions.
"Sec. 617. Authorization of appropriations.

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR HANDICAPPED INDIVIDUALS

"Sec. 621. Projects with industry.
"Sec. 622. Business opportunities for handicapped individuals.
"Sec. 623. Authorization of appropriations.".

TITLE III—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

COMPREHENSIVE SERVICES

SEC. 301. The Rehabilitation Act of 1973, as amended by section 201 of this Act, is further amended by adding at the end the following new title: *Ante*, p. 2989.

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"PURPOSE

Grants. 29 USC 796. 29 USC 720.

"SEC. 701. The purpose of this title is to authorize grants (supplementary to grants for vocational rehabilitation services under title I) to assist States in providing comprehensive services for independent living designed to meet the current and future needs of individuals whose disabilities are so severe that they do not presently have the potential for employment but may benefit from vocational rehabilitation services which will enable them to live and function independently.

"ELIGIBILITY

29 USC 796a.

"SEC. 702. Services may be provided under this title to any individual whose ability to engage or continue in employment, or whose ability to function independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in employment or his ability to function independently in his family or community. Priority of services under this part shall be given to individuals not served by other provisions of this Act.

"Comprehensive services for independent living." 29 USC 720.

"(b) For purposes of this title, the term "comprehensive services for independent living" means any appropriate vocational rehabilitation service (as defined under title I of this Act) and any other service that will enhance the ability of a handicapped individual to live independently and function within his family and community and, if appropriate, secure and maintain appropriate employment. Such services may include any of the following: counseling services, including psychological, psychotherapeutic, and related services; housing incidental to the purpose of this section (including appropriate accommodations to and modifications of any space to serve handicapped individuals); appropriate job placement services; transportation; attendant care; physical rehabilitation; therapeutic treatment; needed prostheses and other appliances and devices; health maintenance; recreational activities; services for children of preschool age, including physical therapy, development of language and communication skills, and child development services; and appropriate preventive services to decrease the needs of individuals assisted under the program for similar services in the future.

"ALLOTMENTS

29 USC 796b.

"SEC. 703. (a) (1) From sums made available for each fiscal year for the purposes of allotments under this subpart, each State whose comprehensive services plan has been approved under section 705 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States. Except as provided in paragraph (2), the allotment to any State under the preceding sentence shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) For purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(b) Amounts necessary to increase the allotments of States under paragraph (1) or to provide allotments under paragraph (2) shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this subpart for the fiscal year for which the allotment is made.

"(c) Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"PAYMENTS TO STATES FROM ALLOTMENTS

29 USC 796c.

"SEC. 704. (a) From each State's allotment for a fiscal year under section 703, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

Federal share.

"(b)(1) The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) The non-Federal share of the cost of any project assisted by an allotment under this subpart may be provided in kind.

"(3) For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"STATE PLANS

Submittal to Commissioner.
29 USC 796d.

"SEC. 705. (a) In order to be eligible for grants under this part, a State shall submit to the Commissioner a State plan for a three-year period for providing comprehensive services for independent living to severely handicapped individuals, and, upon request of the Commissioner, shall make such annual revisions in the plan as may be necessary. Each such plan shall—

"(1) designate the designated State unit of such State as the agency to administer the programs funded under this part;

"(2) demonstrate that the State has studied and considered a wide variety of methods for providing comprehensive services to severely handicapped individuals (such as regional and community centers, halfway houses, and patient-release programs) and that the State will provide, to the maximum extent feasible, meaningful alternatives to institutionalization;

"(3)(A) describe the quality, scope, and extent of the comprehensive services for independent living to be provided to handicapped individuals under this part, and specify the State's goals and plans with respect to the distribution of funds received under part B of this title; and

"(B) provide satisfactory assurances that facilities used in connection with the delivery of services assisted under this part and part B of this title will comply with the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

42 USC 4151 note.
29 USC 722.

"(4) provide assurances that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for independent living services under this part; (B) such services will be provided in accordance with such program; and (C) that such program be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilties Con-

42 USC 6011. 20 USC 1412, 1413.

struction Act, and sections 612(4) and 614(a)(5) of the Education for All Handicapped Children Act of 1975, respectively;

"(5) provide assurances that the State will conduct periodic reviews of the progress of individuals assisted under this title to determine whether services provided to such individuals should be continued, modified, or discontinued;

"(6) provide assurances that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;

"(7) provide assurances that handicapped individuals shall have a substantial role in developing the State plan;

"(8) provide assurances that not less than 20 percent of the funds received by a State under this part shall be used to make grants to local public agencies and private nonprofit organizations for the conduct of independent living services except that the Commissioner may waive the requirement of this clause if the Commissioner determines, on the basis of evidence submitted by the State, that such State cannot feasibly use the funds required to be expended under this section for the purposes of this clause; and

"(9) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

Approval.

"(b) As soon as practicable after receiving a State plan submitted under subsection (a), the Commissioner shall approve or disapprove such plan. The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this section. The provisions of subsections (b), (c), and (d) of section 101 of this Act shall apply to any State plan submitted to the Commissioner pursuant to this section, except that for purposes of this section, all references in such subsections to the Secretary shall be deemed to be references to the Commissioner.

29 USC 721, *Ante*, pp. 2958, 2959.

"PART B—CENTERS FOR INDEPENDENT LIVING

"GRANT PROGRAM ESTABLISHED

29 USC 796e.

"SEC. 711. (a) The Commissioner may make grants to any designated State unit which administers the State plan under section 705 to provide for the establishment and operation of independent living centers, which shall be facilities offering the services described in subsection (c)(2).

Application.

"(b) No grant may be made under this section unless an application therefore has been submitted to and approved by the Commissioner. The Commissioner may not approve an application for a grant unless the application—

"(1) contains assurances that the designated State unit will use funds provided by such grant in accordance with subsection (c); and

"(2) contains such other information, and is submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(c) An application by a public or nonprofit agency or organization for such grant shall—

"(1) provide assurances that handicapped individuals will be substantially involved in policy direction and management of such center, and will be employed by such center;

"(2) contain assurances that the independent living center to be assisted by such grant shall offer handicapped individuals a combination of independent living services, including as appropriate—

Independent living services.

"(A) intake counseling to determine the client's need for specific rehabilitation services;

"(B) referral and counseling services with respect to attendant care;

"(C) counseling and advocacy services with respect to legal and economic rights and benefits;

"(D) independent living skills, counseling, and training, including such programs as training in the maintenance of necessary equipment and in jobseeking skills, counseling on therapy needs and programs, and special programs for the blind and deaf;

"(E) housing and transportation referral and assistance;

"(F) surveys, directories, and other activities to identify appropriate housing and accessible transportation, and other support services;

"(G) health maintenance programs;

"(H) peer counseling;

"(I) community group living arrangements;

"(J) education and training necessary for living in the community and participating in community activities;

"(K) individual and group social and recreational activities;

"(L) other programs designed to provide resources, training, counseling, services, or other assistance of substantial benefit in promoting the independence, productivity, and quality of life of handicapped individuals;

"(M) attendant care and training of personnel to provide such care; and

"(N) such other services as may be necessary and not inconsistent with the provisions of this title; and

"(3) contain such other information, and be submitted in such form and in accordance with such procedures, as the Commissioner may require.

"(d) If, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted such an application, the Commissioner may accept applications for grants under this section from local public agencies or private nonprofit organizations within such State. After the receipt of such applications, the Commissioner may make grants to such agencies or organizations for the purpose of establishing independent living centers to provide the services described in subsection (c) (2).

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"SERVICE PROGRAM ESTABLISHED

"SEC. 721. (a) The Commissioner may make grants to any designated State unit to provide independent living services to older blind individuals. Such services shall be designed to assist an older blind individual to adjust to his blindness by becoming more able to care for his individual needs. Such services may include—

Grants.
29 USC 796f.

"(1) services to help correct blindness such as (A) outreach services, (B) visual screening, (C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions, and (D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older blind individual to become more mobile and more able to care for himself;

"(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

"(5) guide services, reader services, and transportation; and

"(6) any other appropriate services designed to assist a blind person in coping with daily living activities, including supportive services or rehabilitation teaching services.

Application.

"(b) No grant may be made under this section unless an application therefor, containing such information as the Commissioner may require, has been submitted to and approved by the Commissioner. The Commissioner may not approve any application for a grant unless the application contains assurances that the designated State unit will seek to incorporate any new methods and approaches relating to the services described in subsection (a) into its State plan for independent living services under section 705 of this title.

Funds.

"(c) Funds received under this section by any designated State unit may be used to make grants to public or private nonprofit agencies or organizations to—

"(1) conduct activities which will improve or expand services for older blind individuals and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services to older blind individuals in accordance with the provisions of subsection (a).

"Older blind individual."

"(d) For purposes of this section, the term 'older blind individual' means an individual aged fifty-five or older whose severe visual impairment makes gainful employment extremely difficult to attain but for whom independent living goals are feasible.

"PART D—GENERAL PROVISIONS

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Grants.
29 USC 796g.

"SEC. 731. (a) The Commissioner may make grants to States to establish systems to protect and advocate the rights of severely handicapped individuals. In order to be eligible for a grant under this section, a State shall provide the Commissioner with assurances that any system established with grants made under this section shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals receiving services under this title within the State. A State must provide that such system will be independent of any designated State unit that provides services under this part to such individuals.

Application.

"(b) No grant may be made under this section unless an application therefor has been submitted to the Commissioner containing such information and in such form and in accordance with such procedures as the Commissioner may, by regulation, prescribe.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

Affirmative action.
29 USC 796h.

"SEC. 732. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"PART E—AUTHORIZATIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 731. (a) For the purpose of carrying out the provisions of parts A, B, and C of this title, there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $200,000,000 for the fiscal year ending September 30, 1981, and such sums as may be necessary for the fiscal year ending September 30, 1982. 29 USC 796i.

"(b) From the amounts authorized to be appropriated under this section, an amount shall be made available for the purpose of carrying out the provisions of Part C of this title in an amount not in excess of 10 percent of the amount made available for carrying out the provisions of subpart 1 of Part A of this title.

"(c)(1) For the purpose of carrying out Part D of this title, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years, but in no event shall such sums exceed $6,000,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981.

"(2) The provisions of section 1913 of title 18 of the United States Code shall be applicable to all moneys authorized under the provisions of this subsection."

CONFORMING AMENDMENT

SEC. 302. The table of contents for the Rehabilitation Act of 1973, as amended in section 120(c)(6) and section 202(b), is further amended by adding at the end thereof the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—COMPREHENSIVE SERVICES

"Sec. 701. Purpose.
"Sec. 702. Eligibility.
"Sec. 703. Allotments.
"Sec. 704. Payments to States from allotments.
"Sec. 705. State plans.

"PART B—INDEPENDENT LIVING CENTERS

"Sec. 711. Grant program established.

"PART C—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"Sec. 721. Service program established.

"PART D—GENERAL PROVISIONS

"Sec. 731. Protection and advocacy of individual rights.
"Sec. 732. Employment of handicapped individuals.

"PART E—AUTHORIZATIONS

"Sec. 731. Authorization of appropriations.".

TITLE IV—SPECIAL STUDIES AND MISCELLANEOUS PROVISIONS

RESEARCH AND DEMONSTRATION PROJECTS

Grants and contracts.
29 USC 762a.

SEC. 401. (a) The Secretary of Health, Education, and Welfare is authorized to make grants to, and to enter into contract with, public and nonprofit agencies and organizations for the purpose of research and demonstration projects specifically designed to address the multiple and interrelated service needs of handicapped individuals, the elderly, and children, youths, adults, and families. A report evaluating each project funded under this section shall be submitted to appropriate committees of the Congress within four months after the date each such project is completed.

Report to congressional committees.

Appropriation authorization.

(b) There are authorized to be appropriated to carry out this section such sums as may be necessary.

No funds other than those appropriated pursuant to this subsection can be used for the conduct of research specifically authorized by this section.

Impact study, transmittal to Congress.
29 USC 701 note.
42 USC 401, 1381.
42 USC 422, 1382d.

(c) Within one year after the date appropriations are made under subsection (b) for purposes of research and demonstration projects under subsection (a), the Secretary shall prepare and transmit to the Congress a study concerning the impact of vocational rehabilitation services provided under the Rehabilitation Act of 1973 on recipients of disability payments under titles II and XVI of the Social Security Act. The study shall examine the relationship between the vocational rehabilitation services provided under the Rehabilitation Act of 1973 and the programs under sections 222 and 1615 of the Social Security Act, and shall include—

"(1) an analysis of the savings in disability benefit payments under titles II and XVI of the Social Security Act as a result of the provision of vocational rehabilitation services under the Rehabilitation Act of 1973;

"(2) a specification of the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act;

"(3) a specification of the total amount of expenditures, in the five fiscal years preceding the date of submission of the report, for vocational rehabilitation services under the Rehabilitation Act of 1973 and under sections 222 and 1615 of the Social Security Act, and recommendations for the coordinated presentation of such expenditures in the Budget submitted by the President pursuant to section 201 of the Budget and Accounting Act, 1921; and

31 USC 11.

"(4) recommendations to improve the coordination of services under the Rehabilitation Act of 1973 with programs under sections 222 and 1615 of the Social Security Act, including recommendations for increasing savings in disability benefits payments and the rate of return to the active labor force by recipients of services under sections 222 and 1615 of the Social Security Act.".

SPECIAL STUDY CONCERNING HANDICAPPED INDIVIDUALS LIVING IN RURAL AREAS

Consultation.
29 USC 713 note.

SEC. 402. The Secretary, after consultation with the Commissioner of the Rehabilitation Services Administration, Commissioner of Education, the Director of the National Institute on Handicapped Research, and other appropriate officials, organizations, and individuals, shall conduct a study of the special problems and needs of handicapped individuals who reside in rural areas in the United States. Upon the completion of such study, but not later than eighteen months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as he deems appropriate to the President, and to the appropriate committees of the Congress.

Submittal to President and congressional committees.

SPECIAL STUDY CONCERNING DISINCENTIVES TO EMPLOYMENT

Consultation. 29 USC 713 note.

SEC. 403. In consultation with appropriate Federal departments and agencies, the Secretary shall conduct a study of possible ways to structure Federal programs providing benefits to handicapped individuals in order to eliminate any disincentives for individuals receiving benefits under such programs to obtain and continue in employment. Upon the completion of such study, but not later than twenty-four months after the date of enactment of this Act, the Secretary shall submit the results of such study, together with such recommendations as the Secretary deems appropriate to the President and the Congress.

Submittal to the President and congressional committees.

PROHIBITION ON CERTAIN PROGRAMS

29 USC 701 note; 42 USC 3001 note, 5101 note.

SEC. 404. No funds appropriated under the Rehabilitation Act of 1973, the Older Americans Act of 1965, or the Child Abuse Prevention and Treatment Act may be obligated or expended for research, demonstration, or evaluation programs or projects which are not directly managed and monitored by the office charged by law with direct responsibility for carrying out such research, demonstration, or evaluation programs or projects under such Acts and which are not specifically authorized in full by one or more such Acts.

LIMITATIONS ON AUTHORIZATIONS

SEC. 405. No authorization of appropriations in this Act (except for title V) shall be effective for any fiscal year beginning before October 1, 1978. Notwithstanding any other provision of this Act, no new borrowing authority or authority to enter into contracts under this Act (except for title V) shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

Infra.

TITLE V—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

REFERENCE TO ACT

SEC. 501. Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Services and Facilities Construction Act.

42 USC 6001 note.

SHORT TITLE; FINDINGS AND PURPOSES

42 USC 6001 note.

SEC. 502. Part A is amended by striking out section 101 and inserting in lieu thereof the following sections:

"SHORT TITLE

"SEC. 100. This title may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'.

Developmental Disabilities Assistance and Bill of Rights Act. 42 USC 6000 note.

"FINDINGS AND PURPOSES

42 USC 6000.

"Sec. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) individuals with disabilities occurring during their developmental period are more vulnerable and less able to reach an independent level of existence than other handicapped individuals who generally have had a normal developmental period on which to draw during the rehabilitation process;

"(3) persons with developmental disabilities often require specialized lifelong services to be provided by many agencies in a coordinated manner in order to meet the persons' needs;

"(4) general service agencies and agencies providing specialized services to disabled persons tend to overlook or exclude persons with developmental disabilities in their planning and delivery of services; and

"(5) it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care, to meet the needs of persons with developmental disabilities.

"(b)(1) It is the overall purpose of this title to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the protection of the legal and human rights of persons with developmental disabilities.

"(2) The specific purposes of this title are—

"(A) to assist in the provision of comprehensive services to persons with developmental disabilities, with priority to those persons whose needs cannot be covered or otherwise met under the Education for All Handicapped Children Act, the Rehabilitation Act of 1973, or other health, education, or welfare programs;

20 USC 1401 note.
29 USC 701 note.

"(B) to assist States in appropriate planning activities;

Grants.

"(C) to make grants to States and public and private, nonprofit agencies to establish model programs, to demonstrate innovative habilitation techniques, and to train professional and paraprofessional personnel with respect to providing services to persons with developmental disabilities;

"(D) to make grants to university affiliated facilities to assist them in administering and operating demonstration facilities for the provision of services to persons with developmental disabilities, and interdisciplinary training programs for personnel needed to provide specialized services for these persons; and

"(E) to make grants to support a system in each State to protect the legal and human rights of all persons with developmental disabilities.".

DEFINITIONS AND SPECIAL REPORT

42 USC 6001.

Sec. 503. (a) Section 102(1) is amended by inserting "the Northern Mariana Islands," after "Guam,".

(b)(1) Paragraph (7) of section 102 is amended to read as follows:

"(7) The term 'developmental disability' means a severe, chronic disability of a person which—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the person attains age twenty-two;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

"(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.".

Report to Congress.
42 USC 6001 note.

(2) The Secretary of Health, Education, and Welfare shall submit to Congress, not later than January 15, 1981, a special report concerning the impact of the amendment of the definition of "developmentally disabled" made by paragraph (1). This report shall include—

Ante, p. 3003.

(A) an analysis of the impact of the amendment on each of the categories of persons with developmental disabilities receiving services under the Developmental Disabilities Assistance and Bill of Rights Act before the date of enactment of this Act, and for the fiscal year ending on September 30, 1979 and for the succeeding fiscal year, including—

(i) the number of persons with developmental disabilities in each category served before and after such date of enactment; and

(ii) the amounts expended under such Act for each such category of persons with developmental disabilities before and after such date of enactment; and

(B) an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided before the date of enactment of this Act and for the fiscal year ending September 30, 1979 and for the succeeding fiscal year.

42 USC 6001.

(c) Paragraph (8) of section 102 is amended—

(1) by inserting "(A)" after "(8)";

(2) by striking out "means specialized services" and all that follows through "such term includes" and inserting in lieu thereof the following: "means priority services (as defined in subparagraph (B)), and any other specialized services or special adaptations of generic services for persons with developmental disabilities, including in these services the"; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) The term 'priority services' means case management services (as defined in subparagraph (C)), child development services (as defined in subparagraph (D)), alternative community living arrangement services (as defined in subparagraph (E)), and nonvocational social-developmental services (as defined in subparagraph (F)).

"(C) The term 'case management services' means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

"(i) follow-along services which ensure, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person's immediate relatives or guardians, that the changing needs of the person and the family are recognized and appropriately met; and

"(ii) coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons' progress.

"(D) The term 'child development services' means such services as will assist in the prevention, identification, and alleviation of developmental disabilities in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such developmental disabilities.

"(E) The term 'alternative community living arrangement services' means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services.

"(F) The term 'nonvocational social-developmental services' means such services as will assist persons with developmental disabilities in performing daily living and work activities.".

42 USC 6001.

(d) Paragraph (9) of section 102 is amended to read as follows:

"(9) The term 'satellite center' means an entity which is affiliated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facility or facilities in the delivery of services to persons with developmental disabilities, and their families, who reside in geographical areas where adequate services are not otherwise available.".

(e) Paragraph (10) of section 102 is amended by striking out "and which aids" and all that follows through the end thereof and inserting in lieu thereof the following: "and which provides for at least the following activities:

"(A) Interdisciplinary training for personnel concerned with developmental disabilities.

"(B) Demonstration of the provision of exemplary services relating to persons with developmental disabilities.

"(C) (i) Dissemination of findings relating to the provision of services to persons with developmental disabilities, and (ii) providing researchers and government agencies sponsoring service-related research with information on the needs for further service-related research.".

(f) Section 102 is amended by inserting after paragraph (11) the following new paragraph:

"(12) The term 'State Planning Council' means a State Planning Council established under section 137.".

Post, p. 3015.

REPEAL OF NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES OF THE DEVELOPMENTALLY DISABLED

Repeal.
42 USC 6007.

SEC. 504. (a) Section 108 is repealed.

42 USC 6009.

(b) (1) Section 110(a) is amended by striking out ", in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled,".

42 USC 6081.

(2) Section 145(a) is amended by striking out ", after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled,".

(3) Section 145(e) is amended by striking out "(after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled)".

REGULATIONS

Regulations.
42 USC 6008.

SEC. 505. The text of section 109 is amended to read as follows:

"SEC. 109. The Secretary, not later than 180 days after the date of enactment of any Act amending the provisions of this title, shall promulgate such regulations as may be required for the implementation of such amendments.".

EVALUATION SYSTEM

42 USC 6009.

SEC. 506. (a) Section 110(a) is amended—

(1) by striking out "within two years of" and all that follows through "Bill of Rights Act develop" in the first sentence and inserting in lieu thereof "develop, not later than October 1, 1979,";

(2) by striking out "Within six months after the development of such a system, the" in the second sentence and inserting in lieu thereof "The";

(3) by striking out "the receipt of assistance under this title, that such State" in the second sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1980, under this title, that the State";

(4) by striking out "Within two years after the date of the development of such a system, the" in the third sentence and inserting in lieu thereof "The"; and

(5) by striking out "the receipt of assistance under this title, that each State" in the third sentence and inserting in lieu thereof "a State's receipt of assistance on and after October 1, 1982, under this title, that the State".

(b) Subsection (c) of section 110 is amended to read as follows:

Report to Congress.

"(c) Upon development of the evaluation system described in subsection (b), the Secretary shall submit to Congress a report on the system, which report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.".

(c) Section 110 is amended by striking out subsection (d).

RIGHTS OF THE DEVELOPMENTALLY DISABLED

42 USC 6010.

SEC. 507. Section 111 is amended by adding at the end thereof the following new sentence: "The rights of persons with developmental disabilities described in findings made in this section are in addition to any constitutional or other rights otherwise afforded to all persons.".

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

42 USC 6012.

SEC. 508. (a) Section 113(a) is amended—

(1) by striking out "The Secretary shall require" and all that follows through "such system will (A)" and inserting in lieu thereof "In order for a State to receive an allotment under part C, (1) the State must have in effect a system to protect and advocate the rights of persons with developmental disabilities, (2) such system must (A)";

(2) by striking out "State" in clause (2)(B);

(3) by striking out "and (B)" and inserting in lieu thereof "(B) not be administered by the State Planning Council, and (C)";

(4) by inserting before the period at the end of the first sentence the following: ", and (3) the State must submit to the Secretary in a form prescribed by the Secretary in regulations (A) a report, not less often than once every three years, describing the system, and (B) an annual report describing the activities carried out under the system and any changes made in the system during the previous year"; and

(5) by striking out the last sentence thereof.

42 USC 6012.

(b) Section 113(b)(1) is amended—

(1) by inserting "(A)" after "(b)(1)";

Allotments.

(2) by amending the second sentence to read as follows: "Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under the first sentence of subsections (a)(1) and (d) of section 132, except that no State (other than Guam, the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) in any fiscal year shall be allotted an amount under this subparagraph which is less than the greater of $50,000 or the amount of the allotment to the State under this paragraph for the previous fiscal year."; and

42 USC 6062.

(3) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts of the allotments for grants to be made in accordance with such subparagraph for any fiscal year exceeds the total of the amounts appropriated for such allotments under paragraph (2), the amount of a State's allotment for such fiscal year shall bear the same ratio to the amount otherwise determined under such subparagraph as the total of the amounts appropriated for that year under paragraph (2) bears to the aggregate amount required to make an allotment to each of the States in accordance with subparagraph (A).".

(c) Paragraph (2) of section 113(b) is amended (1) by striking out "and" after "1977,", and (2) by adding before the period the following: ", $9,000,000 for the fiscal year ending September 30, 1979, $12,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981. The provisions of section 1913 of title 18, United States Code, shall be applicable to all moneys authorized under the provisions of this section".

GRANT AUTHORITY, APPLICATIONS, AND AUTHORIZATION OF APPROPRIATIONS FOR UNIVERSITY AFFILIATED FACILITIES

42 USC 6041-6043.

SEC. 509. Part B is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"GRANT AUTHORITY

42 USC 6031.
42 USC 6033.
42 USC 6001.

"SEC. 121. (a) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist in the administration and operation of the activities described in section 102 (10).

"(b) The Secretary may make one or more grants to a university affiliated facility receiving a grant under subsection (a) to support one or more of the following activities:

"(1) Conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under subsection (a), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(2) Assessing the need for trained personnel in providing assistance to persons with developmental disabilities.

"(3) Provision of service-related training to practitioners providing services to persons with developmental disabilities.

"(4) Conducting an applied research program designed to produce more efficient and effective methods (A) for the delivery of services to persons with developmental disabilities, and (B) for the training of professionals, paraprofessionals, and parents who provide these services.

The amount of a grant under paragraph (1) may not exceed $25,000.

"(c) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under this section.

"APPLICATIONS

"SEC. 122. (a) Not later than six months after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, the Secretary shall establish by regulation standards for university affiliated facilities. These standards for facilities shall reflect the special needs of persons with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(10).

University affiliated facilities, standards.
42 USC 6032.
Ante, p. 2955.

"(b) No grant may be made under section 121 unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that—

"(1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for persons with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds; and

"(2)(A) the applicant's facility is in full compliance with the standards established under subsection (a), or

"(B)(i) the applicant is making substantial progress toward bringing the facility into compliance with such standards, and (ii) the facility will, not later than three years after the date of approval of the initial application or the date standards are promulgated under subsection (a), whichever is later, fully comply with such standards.

Review process.

"(c) The Secretary shall establish such a process for the review of applications for grants under section 121 as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's facility reviews the application.

"(d)(1) The amount of any grant under section 121(a) to a university affiliated facility shall not be less than $150,000 for any fiscal year.

"(2) The amount of any grant under section 121(c) to a satellite center which has received a grant under section 121(b) (as in effect before the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978) for the fiscal year ending September 30, 1978, shall not be less than $75,000 for any fiscal year. *Ante*, p. 2955.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6033. "Sec. 123. (a) For the purpose of making grants under section 121, there are authorized to be appropriated $12,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $16,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a), not less than—

"(1) $9,000,000 for the fiscal year ending September 30, 1979,

"(2) $10,000,000 for the fiscal year ending September 30, 1980, and

"(3) $11,000,000 for the fiscal year ending September 30, 1981, shall be made available for grants under subsections (a) and (c) of section 121 to qualified applicants which received grants under section 121 during the fiscal year ending September 30, 1978. The remainder of the sums appropriated for such fiscal years shall be made available as the Secretary determines, except that not less than 40 percent of such remainder shall be made available for grants under subsections (b) and (c) of section 121.".

AUTHORIZATION AND ALLOTMENTS FOR STATES

42 USC 6061. Sec. 510. (a) Section 131 is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $55,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $75,000,000 for the fiscal year ending September 30, 1981.".

42 USC 6062. (b) Section 132(a) is amended—

(1) by striking out subparagraph (B) of paragraph (1) and paragraphs (2), (3), and (4);

(2) by striking out "and facilities" each place it appears in subsection (a)(1);

(3) by striking out "(A)" in paragraph (1)(A) and by redesignating clauses (i) through (iii) of such paragraph as subparagraphs (A) through (C), respectively; and

(4) by inserting at the end thereof the following new paragraphs:

"(2) For any fiscal year, the allotment under paragraph (1)—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands may not be less than $100,000, and

"(B) to any other State may not be less than the greater of $250,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1978.

"(3) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 133(b)(2)(B), in the State plan of the State.".

STATE PLANS FOR PROVISION OF SERVICES

SEC. 511. (a) Subsection (b) of section 133 is amended to read as follows: 42 USC 6063.

"(b) In order to be approved by the Secretary under this section, a State plan for the provision of services for persons with developmental disabilities must meet the following requirements: Requirements.

"State Planning Council and Administration of Plan

"(1)(A) The plan must provide for the establishment of a State Planning Council, in accordance with section 137, for the assignment to the Council of personnel in such numbers and with such qualifications as the Secretary determines to be adequate to enable the Council to carry out its duties under that section, and for the identification of the personnel so assigned. *Post*, p. 3015.

"(B) The plan must designate the State agency or agencies which shall administer or supervise the administration of the State plan and, if there is more than one such agency, the portion of such plan which each will administer (or the portion the administration of which each will supervise).

"(C) The plan must provide that each State agency designated under subparagraph (B) will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary finds necessary to verify such reports. Reports.

"(D) The plan must provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds paid to the State under this part.

"Description of Objectives and Services

"(2) The plan must—

"(A) set out the specific objectives to be achieved under the plan and a listing of the programs and resources to be used to meet such objectives;

"(B) describe (and provide for the review annually and revision of the description not less often than once every three years) (i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for Federally assisted State programs as the State conducts relating to education for the handicapped, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, crippled children's services, and comprehensive health and mental health, and under such other plans as the Secretary may specify, and (ii) how funds allotted to the State in accordance with section 132 will be used 42 USC 6062.

to complement and augment rather than duplicate or replace services for persons with developmental disabilities which are eligible for Federal assistance under such other State programs;

"(C) for each fiscal year, assess and describe the extent and scope of the priority services (as defined in section 102(8)(B)) being or to be provided under the plan in the fiscal year; and

Ante, p. 3005.

"(D) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (A).

"Use of Funds

"(3) The plan must contain or be supported by assurances satisfactory to the Secretary that—

42 USC 6062.

"(A) the funds paid to the State under section 132 will be used to make a significant contribution toward strengthening services for persons with developmental disabilities through agencies in the various political subdivisions of the State;

"(B) part of such funds will be made available by the State to public or nonprofit private entities;

"(C) such funds paid to the State under section 132 will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds; and

"(D) there will be reasonable State financial participation in the cost of carrying out the State plan.

"Provision of Priority Services

"(4)(A) The plan must—

"(i) provide for the examination not less often than once every three years of the provision, and the need for the provision, in the State of the four different areas of priority services (as defined in section 102(8)(B)); and

"(ii) provide for the development, not later than the second year in which funds are provided under the plan after the date of the enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, and the timely review and revision of a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of at least one of the areas of priority services, such area or areas to be specified in the plan, and (at the option of the State) for the provision of an additional area of services for the developmentally disabled, such area also to be specified in the plan.

Ante, p. 2955.

"(B)(i) Except as provided in clause (iii), the plan must provide that not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, will be expended, as provided in clause (ii), for service activities in the areas of services specified in the plan under subparagraph (A)(ii).

"(ii) For any year in which the sums appropriated under section 131 do not exceed—

42 USC 6061.

"(I) $60,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than two of the areas of services specified in the plan under subparagraph (A)(ii), and

"(II) $90,000,000, not less than $100,000 or 65 percent of the amount available to the State under section 132, whichever is greater, must be expended for service activities in no more than three of the areas of services specified in the plan under subparagraph (A)(ii).

42 USC 6062.

"(iii) A State, in order to comply with clause (i) for a fiscal year beginning before January 1, 1980, is not required to reduce the amount which is available to it under section 132 and which is expended for planning activities below the amount so expended for planning activities in the preceding fiscal year, if substantially the remainder of the amount available to the State, which is expended for other than administration, is expended for service activities in the areas of services specified in the plan under subparagraph (A)(ii). For purposes of this clause, expenditures for planning activities do not include any expenditures for service activities (as defined in clause (iv)).

"Service activities."

"(iv) For purposes of this subparagraph, the term 'service activities' includes, with respect to an area of services, provision of services in the area, model service programs in the area, activities to increase the capacity of institutions and agencies to provide services in the area, coordinating the provision of services in the area with the provision of other services, outreach to individuals for the provision of services in the area, the training of personnel to provide services in the area, and similar activities designed to expand the use and availability of services in the area.

"(C) Notwithstanding subparagraph (B), upon the application of a State, the Secretary, pursuant to regulations which the Secretary shall prescribe, may permit the portion of the funds which must otherwise be expended under the State plan for service activities in a limited number of areas of services to be expended for service activities in additional areas of services if he determines that the expenditures of the State on service activities in the initially specified areas of services has reasonably met the need for those services in the State in comparison to the extent to which the need for such additional area or areas of services has been met in such State. Such additional areas shall, to the maximum extent feasible, be areas within the areas of priority services (as defined in section 102(8)(B)).

Ante, p. 3005.
Urban or rural poverty areas.

"(D) The plan must provide that special financial and technical assistance shall be given to agencies or entities providing services for persons with developmental disabilities who are residents of geographical areas designated as urban or rural poverty areas.

"Standards for Provision of Services and Protection of Rights of Recipients of Services

"(5)(A)(i) The plan must provide that services furnished, and the facilities in which they are furnished, under the plan for persons with developmental disabilities will be in accordance with standards prescribed by the Secretary in regulations.

Buildings.

"(ii) The plan must provide satisfactory assurances that buildings used in connection with the delivery of services assisted under the plan will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4157) (known as the Architectural Barriers Act of 1968).

"(B) The plan must provide that services are provided in an individualized manner consistent with the requirements of section 112 (relating to habilitation plans). 42 USC 6011.

"(C) The plan must contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected consistent with section 111 (relating to rights of the developmentally disabled). 42 USC 6010.

"(D) The plan must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this title of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

"Professional Assessment and Evaluation Systems

"(6) The plan must provide for—

"(A) an assessment of the adequacy of the skill level of professionals and paraprofessionals serving persons with developmental disabilities in the State and the adequacy of the State programs and plans supporting training of such professionals and paraprofessionals in maintaining the high quality of services provided to persons with developmental disabilities in the State; and

"(B) the planning and implementation of an evaluation system (in accordance with section 110(a)). 42 USC 6009.

"Utilization of VISTA Personnel; Effect of Deinstitutionalization

"(7)(A) The plan must provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and other appropriate voluntary organizations, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees. 42 USC 4951 note.

"(B) The plan must provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions under the plan to provide alternative community living arrangement services (as defined in section 102(8)(E)), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees. Consultation. *Ante*, p. 3006.

"Additional Information and Assurances Required by Secretary

"(8) The plan also must contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.".

(b) Section 133(d)(1) is amended by striking out "for such purpose" and inserting in lieu thereof "for the total expenditures for such purpose by all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan". 42 USC 6063.

(c) Section 133(d)(2) is amended by striking out "during the fiscal year ending June 30, 1975" and inserting in lieu thereof "during the previous fiscal year". 42 USC 6053.

STATE PLANNING COUNCILS

SEC. 512. (a) Subsection (a) of section 137 is amended to read as follows: 42 USC 6067.

"(a)(1) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities (as defined in section 102(7)). The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State. **Establishment.** *Ante*, p. 3004. **Membership.**

"(2) At least one-half of the membership of each such Council shall consist of persons who—

"(A) are persons with developmental disabilities or parents or guardians of such persons, or

"(B) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity. 42 USC 1320a-5. 42 USC 1320a-3.

"(3) Of the members of the Council described in paragraph (2)—

"(A) at least one-third shall be persons with developmental disabilities, and

"(B)(i) at least one-third shall be individuals described in subparagraph (B) of paragraph (2), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.".

(b) Section 137(b) is amended to read as follows:

"(b) Each State Planning Council shall—

"(1) develop jointly with the State agency or agencies designated under section 133(b)(1)(B) the State plan required by this part, including the specification of areas of services under section 133(b)(4)(A)(ii);

"(2) monitor, review, and evaluate, not less often than annually, the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and **Review.**

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably **Reports and records.**

request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.".

42 USC 6067.

(c) Section 137 is amended by striking out subsection (c).

SPECIAL PROJECT GRANTS

42 USC 6081.

SEC. 513. (a) Section 145 is amended—

(1) by inserting "(particularly priority services)" after "otherwise improving services" in subsection (a) (1);

(2) by striking out ", including programs" and all that follows through the semicolon at the end of paragraph (1) of subsection (a) and inserting in lieu thereof "; and";

(3) by striking out "subsection (d)" in subsections (e) and (f) and inserting in lieu thereof "subsection (f)" each place it appears;

(4) by redesignating subsections (b) through (f) as subsections (d) through (h), respectively;

(5) by inserting after paragraph (1) of subsection (a) the following (and redesignating paragraphs (2) through (9) of subsection (a) as paragraphs (1) through (8), respectively):

"(2) demonstrations (and research, training, and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving protection and advocacy services related to the state protection and advocacy system (described in section 113).

42 USC 6012.

"(b) Grants provided under subsection (a) shall include grants for—"; and

(6) by inserting before subsection (d), as so redesignated, the following new subsection:

Participation procedures.

"(c) The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making grants under this section.".

(b) Section 145(b), as amended by subsection (a) of this section, is amended (1) by striking out "and" at the end of paragraph (7), (2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new paragraph:

"(9) developing or demonstrating innovative methods to attract and retain professionals to serve in rural areas in the habilitation of persons with developmental disabilities.".

(c) Section 145(f), as so redesignated, is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period the following: ", $20,000,000 for the fiscal year ending September 30, 1979, $22,000,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

TECHNICAL AND CONFORMING AMENDMENTS

42 USC 6011.

SEC. 514. (a) Section 112 is amended—

(1) by striking out "after September 30, 1976," in subsection (a);

(2) by striking out "Such" in subsection (b)(3) and inserting in lieu thereof "The"; and

(3) by striking out "an" before "objective criteria" in clause (B) of subsection (b)(3).

(b) Section 134 is amended— 42 USC 6064.

(1) by striking out "CONSTRUCTION," in its heading,

(2) by striking out "(a)" in subsection (a), and

(3) by striking out subsection (b).

(c) Section 135 is amended— 42 USC 6065.

(1) by striking out "CONSTRUCTION," in its heading;

(2) by striking out "(a)" in subsection (a); and

(3) by striking out subsection (b).

(d) The heading to part C is amended to read as follows:

"Part C—Grants for Planning and Provision of Services for Persons With Developmental Disabilities".

EFFECTIVE DATE

Sec. 515. The amendments made by this title shall apply to payments under title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act for fiscal years beginning on and after October 1, 1978. 42 USC 6000 note. 42 USC 2661 note.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1149 (Comm. on Education and Labor) and No. 95-1780 (Comm. of Conference).
SENATE REPORT No. 95-890 accompanying S. 2600 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 16, considered and passed House.
Sept. 20, 21, S. 2600 considered in Senate; H.R. 12467, amended, passed in lieu.
Sept. 26, House agreed to Senate amendments, with amendments.
Oct. 15, Senate and House agreed to conference report.

Public Law 95-603
95th Congress

An Act

Nov. 6, 1978
[S. 990]

To amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians.

Federal Physicians Comparability Allowance Act of 1978.
5 USC 5948 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Act of 1978".

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

5 USC 5948.

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(1) $7,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) $10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,
"(2) occupies an internship or residency training position,
"(3) is a reemployed annuitant, or
"(4) is fulfilling a scholarship obligation.

"(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

"(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

"(g) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"Government physician."

"(A) section 5332 of this title, relating to the General Schedule;

5 USC 5332.

"(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

5 USC 5361.

"(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

"(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

"(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

"(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, and the District of Columbia government.

"Agency."

"(h) (1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

5 USC 5551, 5595, 8101 *et seq.*, 8301 *et seq.*, 8701 *et seq.*

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

"(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.".

TVA administration.

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances.".

5 USC 5948 note. (c) No agreement shall be entered into under section 5948 of title 5, United States Code, as added by subsection (a), before the 60th day after the date of the enactment of this Act. No such agreement shall provide for the payment of any allowance under such section for any pay period beginning before the later of—

(1) such 60th day, or

(2) October 1, 1978.

5 USC 5948 note. SEC. 3. The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

SENATE REPORT No. 95-864 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 25, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 13, Senate concurred in House amendments.

Public Law 95-604
95th Congress

An Act

To authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

Nov. 8, 1978
[H.R. 13650]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uranium Mill Tailings Radiation Control Act of 1978.
42 USC 7901 note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Uranium Mill Tailings Radiation Control Act of 1978".

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FINDINGS AND PURPOSES

42 USC 7901.

SEC. 2. (a) The Congress finds that uranium mill tailings located at active and inactive mill operations may pose a potential and significant radiation health hazard to the public, and that the protection of the public health, safety, and welfare and the regulation of interstate commerce require that every reasonable effort be made to provide for the stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings.

(b) The purposes of this Act are to provide—

(1) in cooperation with the interested States, Indian tribes, and the persons who own or control inactive mill tailings sites, a program of assessment and remedial action at such sites, including, where appropriate, the reprocessing of tailings to extract residual uranium and other mineral values where practicable, in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public, and

(2) a program to regulate mill tailings during uranium or thorium ore processing at active mill operations and after termination of such operations in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public.

TITLE I—REMEDIAL ACTION PROGRAM

DEFINITIONS

42 USC 7911.

Sec. 101. For purposes of this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "Indian tribe" means any tribe, band, clan, group, pueblo, or community of Indians recognized as eligible for services provided by the Secretary of the Interior to Indians.

(5) The term "person" means any individual, association, partnership, corporation, firm, joint venture, trust, government entity, and any other entity, except that such term does not include any Indian or Indian tribe.

(6) The term "processing site" means—

(A) any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971 under a contract with any Federal agency, except in the case of a site at or near Slick Rock, Colorado, unless—

(i) such site was owned or controlled as of January 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

42 USC 2011 note.
42 USC 2021.

(ii) a license (issued by the Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act) for the production at such site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; and

(B) any other real property or improvement thereon which—

(i) is in the vicinity of such site, and

(ii) is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

Any ownership or control of an area by a Federal agency which is acquired pursuant to a cooperative agreement under this title shall not be treated as ownership or control by such agency for purposes of subparagraph (A)(i). A license for the production of any uranium product from residual radioactive materials shall not be treated as a license for production from ores within the meaning of subparagraph (A)(ii) if such production is in accordance with section 108(b).

(7) The term "residual radioactive material" means—

(A) waste (which the Secretary determines to be radioactive) in the form of tailings resulting from the processing of ores for the extraction of uranium and other valuable constituents of the ores; and

(B) other waste (which the Secretary determines to be radioactive) at a processing site which relate to such processing, including any residual stock of unprocessed ores or low-grade materials.

(8) The term "tailings" means the remaining portion of a metal-bearing ore after some or all of such metal, such as uranium, has been extracted.

(9) The term "Federal agency" includes any executive agency as defined in section 105 of title 5 of the United States Code.

(10) The term "United States" means the 48 contiguous States and Alaska, Hawaii, Puerto Rico, the District of Columbia, and the territories and possessions of the United States.

DESIGNATION OF PROCESSING SITES

SEC. 102. (a)(1) As soon as practicable, but no later than one year after enactment of this Act, the Secretary shall designate processing sites at or near the following locations: 42 USC 7912.

Salt Lake City, Utah
Green River, Utah
Mexican Hat, Utah
Durango, Colorado
Grand Junction, Colorado
Rifle, Colorado (two sites)
Gunnison, Colorado
Naturita, Colorado
Maybell, Colorado
Slick Rock, Colorado (two sites)
Shiprock, New Mexico
Ambrosia Lake, New Mexico
Riverton, Wyoming
Converse County, Wyoming
Lakeview, Oregon
Falls City, Texas
Tuba City, Arizona
Monument Valley, Arizona
Lowman, Idaho
Cannonsburg, Pennsylvania

Remedial action.

Subject to the provisions of this title, the Secretary shall complete remedial action at the above listed sites before his authority terminates under this title. The Secretary shall within one year of the date of enactment of this Act also designate all other processing sites within the United States which he determines requires remedial action to carry out the purposes of this title. In making such designation, the Secretary shall consult with the Administrator, the Commission, and the affected States, and in the case of Indian lands, the appropriate Indian tribe and the Secretary of the Interior.

(2) As part of his designation under this subsection, the Secretary, in consultation with the Commission, shall determine the boundaries of each such site.

86 Stat. 222.

(3) No site or structure with respect to which remedial action is authorized under Public Law 92-314 in Grand Junction, Colorado, may be designated by the Secretary as a processing site under this section.

Health hazard assessment.

(b) Within one year from the date of the enactment of this Act, the Secretary shall assess the potential health hazard to the public from the residual radioactive materials at designated processing sites. Based upon such assessment, the Secretary shall, within such one year period, establish priorities for carrying out remedial action at each such site. In establishing such priorities, the Secretary shall rely primarily on the advice of the Administrator.

Notification.

(c) Within thirty days after making designations of processing sites and establishing the priorities for such sites under this section, the Secretary shall notify the Governor of each affected State, and, where appropriate, the Indian tribes and the Secretary of the Interior.

(d) The designations made, and priorities established, by the Secretary under this section shall be final and not be subject to judicial review.

(e)(1) The designation of processing sites within one year after enactment under this section shall include, to the maximum extent practicable, the areas referred to in section 101(6)(B).

(2) Notwithstanding the one year limitation contained in this section, the Secretary may, after such one year period, include any area described in section 101(6)(B) as part of a processing site designated under this section if he determines such inclusion to be appropriate to carry out the purposes of this title.

STATE COOPERATIVE AGREEMENTS

42 USC 7913.

SEC. 103. (a) After notifying a State of the designation referred to in section 102 of this title, the Secretary subject to section 113, is authorized to enter into cooperative agreements with such State to perform remedial actions at each designated processing site in such State (other than a site located on Indian lands referred to in section 105). The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. The Secretary shall commence preparations for cooperative agreements with respect to each designated processing site as promptly as practicable following the designation of each site.

Terms and Conditions.

(b) Each cooperative agreement under this section shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited

best copy available

to, a limitation on the use of Federal assistance to those costs which are directly required to complete the remedial action selected pursuant to section 108.

Written consent.

(c)(1) Except where the State is required to acquire the processing site as provided in subsection (a) of section 104, each cooperative agreement with a State under section 103 shall provide that the State shall obtain, in a form prescribed by the Secretary, written consent from any person holding any record interest in the designated processing site for the Secretary or any person designated by him to perform remedial action at such site.

Waiver.

(2) Such written consent shall include a waiver by each such person on behalf of himself, his heirs, successors, and assigns—

(A) releasing the United States of any liability or claim thereof by such person, his heirs, successors, and assigns concerning such remedial action, and

(B) holding the United States harmless against any claim by such person on behalf of himself, his heirs, successors, or assigns arising out of the performance of any such remedial action.

(d) Each cooperative agreement under this section shall require the State to assure that the Secretary, the Commission, and the Administrator and their authorized representatives have a permanent right of entry at any time to inspect the processing site and the site provided pursuant to section 104(b)(1) in furtherance of the provisions of this title and to carry out such agreement and enforce this Act and any rules prescribed under this Act. Such right of entry under this section or section 106 into an area described in section 101(6)(B) shall terminate on completion of the remedial action, as determined by the Secretary.

(e) Each agreement under this section shall take effect only upon the concurrence of the Commission with the terms and conditions thereof.

(f) The Secretary may, in any cooperative agreement entered into under this section or section 105, provide for reimbursement of the actual costs, as determined by the Secretary, of any remedial action performed with respect to so much of a designated processing site as is described in section 101(6)(B). Such reimbursement shall be made only to a property owner of record at the time such remedial action was undertaken and only with respect to costs incurred by such property owner. No such reimbursement may be made unless—

(1) such remedial action was completed prior to enactment of this Act, and unless the application for such reimbursement was filed by such owner within one year after an agreement under this section or section 105 is approved by the Secretary and the Commission, and

(2) the Secretary is satisfied that such action adequately achieves the purposes of this Act with respect to the site concerned and is consistent with the standards established by the Administrator pursuant to section 275(a) of the Atomic Energy Act of 1954.

Post, p. 3039.

ACQUISITION AND DISPOSITION OF LANDS AND MATERIALS

42 USC 7914.

SEC. 104. (a) Each cooperative agreement under section 103 shall require the State, where determined appropriate by the Secretary with the concurrence of the Commission, to acquire any designated processing site, including where appropriate any interest therein. In determining whether to require the State to acquire a designated processing site or interest therein, consideration shall be given to the prevention of windfall profits.

Residual radioactive material, removal.

(b)(1) If the Secretary with the concurrence of the Commission determines that removal of residual radioactive material from a processing site is appropriate, the cooperative agreement shall provide that the State shall acquire land (including, where appropriate, any interest therein) to be used as a site for the permanent disposition and stabilization of such residual radioactive materials in a safe and environmentally sound manner.

(2) Acquisition by the State shall not be required under this subsection if a site located on land controlled by the Secretary or made available by the Secretary of the Interior pursuant to section 106 (a)(2) is designated by the Secretary, with the concurrence of the Commission, for such disposition and stabilization.

(c) No State shall be required under subsection (a) or (b) to acquire any real property or improvement outside the boundaries of—

(1) that portion of the processing site which is described in section 101(6)(A), and

(2) the site used for disposition of the residual radioactive materials.

Notification.

Rules and regulations.

(d) In the case of each processing site designated under this title other than a site designated on Indian land, the State shall take such action as may be necessary, and pursuant to regulations of the Secretary under this subsection, to assure that any person who purchases such a processing site after the removal of radioactive materials from such site shall be notified in an appropriate manner prior to such purchase, of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place, and the condition of such site after such action. If the State is the owner of such site, the State shall so notify any prospective purchaser before entering into a contract, option, or other arrangement to sell or otherwise dispose of such site. The Secretary shall issue appropriate rules and regulations to require notice in the local land records of the residual radioactive materials which were located at any processing site and notice of the nature and extent of residual radioactive materials removed from the site, including notice of the date when such action took place.

(e)(1) The terms and conditions of any cooperative agreement with a State under section 103 shall provide that in the case of any lands or interests therein acquired by the State pursuant to subsection (a), the State, with the concurrence of the Secretary and the Commission, may—

(A) sell such lands and interests,

(B) permanently retain such land and interests in lands (or donate such lands and interests therein to another governmental entity within such State) for permanent use by such State or entity solely for park, recreational, or other public purposes, or

(C) transfer such lands and interests to the United States as provided in subsection (f).

No lands may be sold under subparagraph (A) without the consent of the Secretary and the Commission. No site may be sold under subparagraph (A) or retained under subparagraph (B) if such site is used for the disposition of residual radioactive materials.

(2) Before offering for sale any lands and interests therein which comprise a processing site, the State shall offer to sell such lands and interests at their fair market value to the person from whom the State acquired them.

(f)(1) Each agreement under section 103 shall provide that title to—

(A) the residual radioactive materials subject to the agreement, and

(B) any lands and interests therein which have been acquired by the State, under subsection (a) or (b), for the disposition of such materials,

shall be transferred by the State to the Secretary when the Secretary (with the concurrence of the Commission) determines that remedial action is completed in accordance with the requirements imposed pursuant to this title. No payment shall be made in connection with the transfer of such property from funds appropriated for purposes of this Act other than payments for any administrative and legal costs incurred in carrying out such transfer.

(2) Custody of any property transferred to the United States under this subsection shall be assumed by the Secretary or such Federal agency as the President may designate. Notwithstanding any other provision of law, upon completion of the remedial action program authorized by this title, such property and minerals shall be maintained pursuant to a license issued by the Commission in such manner as will protect the public health, safety, and the environment. The Commission may, pursuant to such license or by rule or order, require the Secretary or other Federal agency having custody of such property and minerals to undertake such monitoring, maintenance, and emergency measures necessary to protect public health and safety and other actions as the Commission deems necessary to comply with the standards of section 275(a) of the Atomic Energy Act of 1954. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring and emergency measures under this subsection, but shall take no other action pursuant to such license, rule or order with respect to such property and minerals unless expressly authorized by Congress after the date of enactment of this Act. The United States shall not transfer title to property or interest therein acquired under this subsection to any person or State, except as provided in subsection (h).

Post, p. 3039.

(g) Each agreement under section 103 which permits any sale described in subsection (e)(1)(A) shall provide for the prompt reimbursement to the Secretary from the proceeds of such sale. Such reimbursement shall be in an amount equal to the lesser of—

(1) that portion of the fair market value of the lands or interests therein which bears the same ratio to such fair market value as the Federal share of the costs of acquisition by the State to such lands or interest therein bears to the total cost of such acquisition, or

(2) the total amount paid by the Secretary with respect to such acquisition.

Fair market value.

The fair market value of such lands or interest shall be determined by the Secretary as of the date of the sale by the State. Any amounts received by the Secretary under this title shall be deposited in the Treasury of the United States as miscellaneous receipts.

(h) No provision of any agreement under section 103 shall prohibit the Secretary of the Interior, with the concurrence of the Secretary of Energy and the Commission, from disposing of any subsurface mineral rights by sale or lease (in accordance with laws of the United States applicable to the sale, lease, or other disposal of such rights) which are associated with land on which residual radioactive materials are disposed and which are transferred to the United States as required under this section if the Secretary of the Interior takes such action as the Commission deems necessary pursuant to a license issued by the Commission to assure that the residual radioactive materials will not be disturbed by reason of any activity carried on following such disposition. If any such materials are disturbed by any such activity, the Secretary of the Interior shall insure, prior to the disposition of the minerals, that such materials will be restored to a safe and environmentally sound condition as determined by the Commission, and that the costs of such restoration will be borne by the person acquiring such rights from the Secretary of the Interior or from his successor or assign.

INDIAN TRIBE COOPERATIVE AGREEMENTS

42 USC 7915.

SEC. 105. (a) After notifying the Indian tribe of the designation pursuant to section 102 of this title, the Secretary, in consultation with the Secretary of the Interior, is authorized to enter into a cooperative agreement, subject to section 113, with any Indian tribe to perform remedial action at a designated processing site located on land of such Indian tribe. The Secretary shall, to the greatest extent practicable, enter into such agreements and carry out such remedial actions in accordance with the priorities established by him under section 102. In performing any remedial action under this section and in carrying out any continued monitoring or maintenance respecting residual radioactive materials associated with any site subject to a cooperative agreement under this section, the Secretary shall make full use of any qualified members of Indian tribes resident in the vicinity of any such site. Each such agreement shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act. Such terms and conditions shall require the following:

Terms and conditions.

(1) The Indian tribe and any person holding any interest in such land shall execute a waiver (A) releasing the United States of any liability or claim thereof by such tribe or person concerning such remedial action and (B) holding the United States harmless against any claim arising out of the performance of any such remedial action.

(2) The remedial action shall be selected and performed in accordance with section 108 by the Secretary or such person as he may designate.

(3) The Secretary, the Commission, and the Administrator and their authorized representatives shall have a permanent right of entry at any time to inspect such processing site in furtherance of the provisions of this title, to carry out such agreement, and to enforce any rules prescribed under this Act.

Each agreement under this section shall take effect only upon concurrence of the Commission with the terms and conditions thereof.

(b) When the Secretary with the concurrence of the Commission determines removal of residual radioactive materials from a processing site on lands described in subsection (a) to be appropriate, he shall provide, consistent with other applicable provisions of law, a site or sites for the permanent disposition and stabilization in a safe and environmentally sound manner of such residual radioactive materials. Such materials shall be transferred to the Secretary (without payment therefor by the Secretary) and permanently retained and maintained by the Secretary under the conditions established in a license issued by the Commission, subject to section 104(f)(2) and (h).

Transfer to Secretary of the Interior.

ACQUISITION OF LAND BY SECRETARY

42 USC 7916.

SEC. 106. Where necessary or appropriate in order to consolidate in a safe and environmentally sound manner the location of residual radioactive materials which are removed from processing sites under cooperative agreements under this title, or where otherwise necessary for the permanent disposition and stabilization of such materials in such manner—

(1) the Secretary may acquire land and interests in land for such purposes by purchase, donation, or under any other authority of law or

(2) the Secretary of the Interior may make available public lands administered by him for such purposes in accordance with other applicable provisions of law.

Consultation.

Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.

FINANCIAL ASSISTANCE

42 USC 7917.

SEC. 107. (a) In the case of any designated processing site for which an agreement is executed with any State for remedial action at such site, the Secretary shall pay 90 per centum of the actual cost of such remedial action, including the actual costs of acquiring such site (and any interest therein) or any disposition site (and any interest therein) pursuant to section 103 of this title, and the State shall pay the remainder of such costs from non-Federal funds. The Secretary shall not pay the administrative costs incurred by any State to develop, prepare, and carry out any cooperative agreement executed with such State under this title, except the proportionate share of the administrative costs associated with the acquisition of lands and interests therein acquired by the State pursuant to this title.

(b) In the case of any designated processing site located on Indian lands, the Secretary shall pay the entire cost of such remedial action.

REMEDIAL ACTION

42 USC 7918.

SEC. 108. (a)(1) The Secretary or such person as he may designate shall select and perform remedial actions at designated processing sites and disposal sites in accordance with the general standards prescribed

Post, p. 3039.

by the Administrator pursuant to section 275 a. of the Atomic Energy Act of 1954. The State shall participate fully in the selection and performance of a remedial action for which it pays part of the cost. Such remedial action shall be selected and performed with the concurrence of the Commission and in consultation, as appropriate, with the Indian tribe and the Secretary of the Interior.

(2) The Secretary shall use technology in performing such remedial action as will insure compliance with the general standards promulgated by the Administrator under section 275 a. of the Atomic Energy Act of 1954 and will assure the safe and environmentally sound stabilization of residual radioactive materials, consistent with existing law. No such remedial action may be undertaken under this section before the promulgation by the Administrator of such standards.

Evaluation.

(b) Prior to undertaking any remedial action at a designated site pursuant to this title, the Secretary shall request expressions of interest from private parties regarding the remilling of the residual radioactive materials at the site and, upon receipt of any expression of interest, the Secretary shall evaluate among other things the mineral concentration of the residual radioactive materials at each designated processing site to determine whether, as a part of any remedial action program, recovery of such minerals is practicable. The Secretary, with the concurrence of the Commission, may permit the recovery of such minerals, under such terms and conditions as he may prescribe to carry out the purposes of this title. No such recovery shall be permitted unless such recovery is consistent with remedial action. Any person permitted by the Secretary to recover such mineral shall pay to the Secretary a share of the net profits derived from such recovery, as determined by the Secretary. Such share shall not exceed the total amount paid by the Secretary for carrying out remedial action at such designated site. After payment of such share to the United States under this subsection, such person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from such recovery, as determined by the Secretary. The person recovering such minerals shall bear all costs of such recovery. Any person carrying out mineral recovery activities under this paragraph shall be required to obtain any necessary license under the Atomic Energy Act of 1954 or under State law as permitted under section 274 of such Act.

42 USC 2011 note.
42 USC 2021.

RULES

42 USC 7919.
42 USC 7191.

SEC. 109. The Secretary may prescribe such rules consistent with the purposes of this Act as he deems appropriate pursuant to title V of the Department of Energy Organization Act.

ENFORCEMENT

42 USC 7920.

SEC. 110. (a)(1) Any person who violates any provision of this title or any cooperative agreement entered into pursuant to this title or any rule prescribed under this Act concerning any designated processing site, disposition site, or remedial action shall be subject to an assessment by the Secretary of a civil penalty of not more than $1,000 per day per violation. Such assessment shall be made by order after notice and an opportunity for a public hearing, pursuant to section 554 of title 5, United States Code.

Notice, hearing opportunity.

(2) Any person against whom a penalty is assessed under this section may, within sixty calendar days after the date of the order of

the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

5 USC 500 *et seq.*
Jurisdiction.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review. Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this section.

42 USC 7172.

(4) No civil penalty may be assessed against the United States or any State or political subdivision of a State or any official or employee of the foregoing.

(5) Nothing in this section shall prevent the Secretary from enforcing any provision of this title or any cooperative agreement or any such rule by injunction or other equitable remedy.

(b) Subsection (a) shall not apply to any licensing requirement under the Atomic Energy Act of 1954. Such licensing requirements shall be enforced by the Commission as provided in such Act.

42 USC 2011 note.

PUBLIC PARTICIPATION

SEC. 111. In carrying out the provisions of this title, including the designation of processing sites, establishing priorities for such sites, the selection of remedial actions, and the execution of cooperative agreements, the Secretary, the Administrator, and the Commission shall encourage public participation and, where appropriate, the Secretary shall hold public hearings relative to such matters in the States where processing sites and disposal sites are located.

42 USC 7921.

TERMINATION; AUTHORIZATION

SEC. 112. (a) The authority of the Secretary to perform remedial action under this title shall terminate on the date seven years after the date of promulgation by the Administrator of general standards applicable to such remedial action unless such termination date is specifically extended by an Act of Congress enacted after the date of enactment of this Act.

42 USC 7922.

(b) The amounts authorized to be appropriated to carry out the purposes of this title by the Secretary, the Administrator, the Commission, and the Secretary of the Interior shall not exceed such amounts as are established in annual authorization Acts for fiscal year 1979 and each fiscal year thereafter applicable to the Department of Energy. Any sums appropriated for the purposes of this title shall be available until expended.

LIMITATION

SEC. 113. The authority under this title to enter into contracts or other obligations requiring the United States to make outlays may

42 USC 7923.

be exercised only to the extent provided in advance in annual authorization and appropriation Acts.

REPORTS TO CONGRESS

42 USC 7924.

SEC. 114. (a) Beginning on January 1, 1980, and each year thereafter until January 1, 1986, the Secretary shall submit a report to the Congress with respect to the status of the actions required to be taken by the Secretary, the Commission, the Secretary of the Interior, the Administrator, and the States and Indian tribes under this Act and any amendments to other laws made by this Act. Each report shall—

(1) include data on the actual and estimated costs of the program authorized by this title;

(2) describe the extent of participation by the States and Indian tribes in this program;

(3) evaluate the effectiveness of remedial actions, and describe any problems associated with the performance of such actions; and

(4) contain such other information as may be appropriate.

Such report shall be prepared in consultation with the Commission, the Secretary of the Interior, and the Administrator and shall contain their separate views, comments, and recommendations, if any. The Commission shall submit to the Secretary and Congress such portion of the report under this subsection as relates to the authorities of the Commission under title II of this Act.

(b) Not later than July 1, 1979, the Secretary shall provide a report to the Congress which identifies all sites located on public or acquired lands of the United States containing residual radioactive materials and other raidoactive waste (other than waste resulting from the production of electric energy) and specifies which Federal agency has jurisdiction over such sites. The report shall include the identity of property and other structures in the vicinity of such site that are contaminated or may be contaminated by such materials and the actions planned or taken to remove such materials. The report shall describe in what manner such sites are adequately stabilized and otherwise controlled to prevent radon diffusion from such sites into the environment and other environmental harm. If any site is not so stabilized or controlled, the report shall describe the remedial actions planned for such site and the time frame for performing such actions. In preparing the reports under this section, the Secretary shall avoid duplication of previous or ongoing studies and shall utilize all information available from other departments and agencies of the United States respecting the subject matter of such report. Such agencies shall cooperate with the Secretary in the preparation of such report and furnish such information as available to them and necessary for such report.

Cooperation.

(c) Not later than January 1, 1980, the Administrator, in consultation with the Commission, shall provide a report to the Congress which identifies the location and potential health, safety, and environmental hazards of uranium mine wastes together with recommendations, if any, for a program to eliminate these hazards.

(d) Copies of the reports required by this section to be submitted to the Congress shall be separately submitted to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) The Commission, in cooperation with the Secretary, shall ensure that any relevant information, other than trade secrets and other proprietary information otherwise exempted from mandatory disclosure under any other provision of law, obtained from the conduct of each of the remedial actions authorized by this title and the subsequent perpetual care of those residual radioactive materials is documented systematically, and made publicly available conveniently for use.

ACTIVE OPERATIONS; LIABILITY FOR REMEDIAL ACTION

SEC. 115. (a) No amount may be expended under this title with respect to any site licensed by the Commission under the Atomic Energy Act of 1954 or by a State as permitted under section 274 of such Act at which production of any uranium product from ores (other than from residual radioactive materials) takes place.

42 USC 7925.
42 USC 2011 note.
42 USC 2021.

(b) In the case of each processing site designated under this title, the Attorney General shall conduct a study to determine the identity and legal responsibility which any person (other than the United States, a State, or Indian tribe) who owned or operated or controlled (as determined by the Attorney General) such site before the date of the enactment of this Act may have under any law or rule of law for reclamation or other remedial action with respect to such site. The Attorney General shall publish the results of such study, and provide copies thereof to the Congress, as promptly as practicable following the date of the enactment of this Act. The Attorney General, based on such study, shall, to the extent he deems it appropriate and in the public interest, take such action under any provision of law in effect when uranium was produced at such site to require payment by such person of all or any part of the costs incurred by the United States for such remedial action for which he determines such person is liable.

Study.

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION DEFINITION

SEC. 201. Section 11e. of the Atomic Energy Act of 1954, is amended to read as follows:

42 USC 2014.

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content."

"Byproduct material."

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.—

42 USC 2113.

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11e.

42 USC 2002, 2111.
Supra.

(2), shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material, as defined in section 11 e. (2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection b. (1) to acquire land used for the disposal of byproduct material.

Ante, p. 3033.

Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs.

Rule, regulation or order.

"(b)(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 11 e. (2), pursuant to such license shall be transferred to—

"(A) the United States, or

"(B) the State in which such land is located, at the option of such State.

"(2) Unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 84(b) in such manner as will protect the public health, safety, and the environment.

"(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

"(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

"(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

"(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

42 USC 2092.

"(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

Post, p. 3039.

"(6) The transfer of title to land or byproduct materials, as defined in section 11 e. (2), to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

Ante, p. 3033.

"(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

Ante, p. 3025.

"(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

"c. Upon termination on any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.".

Effective date. 42 USC 2113 note.

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954, is amended by inserting the following new item after the item relating to section 82:

"Sec. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

42 USC 2201.

SEC. 203. Section 161 of the Atomic Energy Act of 1954, is amended by adding the following new subsection at the end thereof:

42 USC 2231.

"x. Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure—

Ante, p. 3033.

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11 e. (2), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

"(2) that—

"(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.".

COOPERATION WITH STATES

42 USC 2021.

SEC. 204. (a) Section 274 b. of the Atomic Energy Act of 1954, is amended by adding "as defined in section 11 e. (1)" after the words "byproduct materials" in paragraph (1) by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11 e. (2);". *Ante*, p. 3033.

(b) Section 274 d. (2) of such Act is amended by inserting the following before the word "compatible": "in accordance with the requirements of subsection o. and in all other respects". 42 USC 2021.

(c) Section 274 n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.". "Agreement."

(d) Section 274 j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.". Review.

(e)(1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of byproduct material, as defined in section 11 e. (2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and *Ante*, p. 3033. *Post*, p. 3039.

"(3) procedures which—

"(A) in the case of licenses, provide procedures under State law which include—

"(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

"(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 11 e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.". *Ante*, p. 3033. 42 USC 2201.

42 USC 2021. (f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11 e. (2).". *Ante*, p. 3033.

42 USC 2021 note. (g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

42 USC 2021 note. (h)(1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) of such Act, may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.— 42 USC 2114.

"a. The Commission shall insure that the management of any byproduct material, as defined in section 11 e. (2), is carried out in such manner as— 42 USC 2014.

"(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and *Infra.*

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended. 42 USC 6901 note.

"b. In carrying out its authority under this section, the Commission is authorized to— Rule, regulation or order.

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and 42 USC 2111.

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.". Civil penalty. *Ante*, p. 3033. 42 USC 2282.

(b) The first sentence of section 81 of the Atomic Energy Act of 1954, is amended to read as follows: "No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.". 42 USC 2111. 42 USC 2112.

(c) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83: *Supra.*

"Sec. 84. Authorities of Commission respecting certain byproduct material.".

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. (a) Chapter 19 of the Atomic Energy Act of 1954, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.— 42 USC 2022.

Rule.

Ante, p. 3025.

Ante, p. 3022.

42 USC 6901 note.

"a. As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. The Administrator may periodically revise any standard promulgated pursuant to this subsection.

Rule.

Ante, p. 3033.

"b. (1) As soon as practicable, but not later than eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material.

42 USC 6921.

Ante, p. 3036.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided, however*, That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11 e. (2) or any revision thereof.

Publication in Federal Register.
Notice, hearing opportunity.

Consultation.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

Judicial review.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

5 USC 701 *et seq.*

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards promulgated pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsecton o. of such section.

42 USC 2021.

"e. Nothing in this Act applicable to byproduct material, as defined in section 11 e. (2) of this Act, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

Ante, p. 3033.
42 USC 7401 note.
33 USC 1251 note.

(b) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

42 USC 2018 *et seq.*

"Sec. 275. Health and environmental standards for uranium mill tailings.".

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of the Atomic Energy Act of 1954, to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

42 USC 2014 note.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954.

42 USC 2113 note.

42 USC 2011 note.

TITLE III—STUDY AND DESIGNATION OF TWO MILL TAILINGS SITES IN NEW MEXICO

STUDY

42 USC 7941.

SEC. 301. The Commission, in consultation with the Attorney General and the Attorney General of the State of New Mexico, shall conduct a study to determine the extent and adequacy of the authority of the Commission and the State of New Mexico to require, under the Atomic Energy Act of 1954 (as amended by title II of this Act) or under State authority as permitted under section 274 of such Act or under other provision of law, the owners of the following active uranium mill sites to undertake appropriate action to regulate and control all residual radioactive materials at such sites to protect public health, safety, and the environment: the former Homestake-New Mexico Partners site near Milan, New Mexico, and the Anaconda carbonate process tailings site near Bluewater, New Mexico. Such study shall be completed and a report thereof submitted to the Congress and to the Secretary within one year after enactment of this Act, together with such recommendations as may be appropriate. If the Commission determines that such authority is not adequate to regulate and control such materials at such sites in the manner provided in the first sentence of this section, the Commission shall include in the report a statement of the basis for such determination. Nothing in this Act shall be construed to prevent or delay action by a State as permitted under section 274 of the Atomic Energy Act of 1954 or under any other provision of law or by the Commission to regulate such residual radioactive materials at such sites prior to completion of such study.

42 USC 2021.

Report to Congress.

DESIGNATION BY SECRETARY

42 USC 7942.

SEC. 302. (a) Within ninety days from the date of his receipt of the report and recommendations submitted by the Commission under section 301, notwithstanding the limitations contained in section 101(6)(A) and in section 115(a), if the Commission determines, based on such study, that such sites cannot be regulated and controlled by the State or the Commission in the manner described in section 301, the Secretary may designate either or both of the sites referred to in section 301 as a processing site for purposes of title I. Following such designation, the Secretary may enter into cooperative agreements with New Mexico to perform remedial action pursuant to such title concerning only the residual radioactive materials at such site resulting from uranium produced for sale to a Federal agency prior to January 1, 1971, under contract with such agency. Any such designation shall be submitted by the Secretary, together with his estimate of the cost of carrying out such remedial action at the designated site, to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

Submittal to congressional committees.

(b)(1) No designation under subsection (a) shall take effect before the expiration of one hundred and twenty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after receipt by such Committees of such designation.

(c) Except as otherwise specifically provided in subsection (a), any remedial action under title I with respect to any sites designated under this title shall be subject to the provisions of title I (including the authorization of appropriations referred to in section 112(b)).

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1480, Pt. I (Comm. on Interior and Insular Affairs) and Pt. II (Comm. on Interstate and Foreign Commerce).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Oct. 3, considered and passed House.
Oct. 13, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendment with amendments.
Oct. 15, Senate concurred in House amendments.

Public Law 95-605
95th Congress

An Act

Nov. 8, 1978
[S. 2774]

To extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes.

Toiyabe National Forest, Nev. Boundaries extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in the protection and management of the various resources of the lands, including the protection, improvement, and maintenance of the watershed, wildlife, recreation, and natural environment values thereof, situated in the Lake Tahoe Basin, and to promote the management and protection of such lands under principles of multiple use and sustained yield, the boundaries of the Toiyabe National Forest are hereby extended to include the area described in section 2 hereof. Subject to any valid claims now existing and hereafter maintained, any lands of the United States within such area are hereby added to such National Forest and shall be subject to law and regulations applicable to the National Forests.

Sec. 2. This Act shall be applicable to the following lands:

(a) a tract of land referred to as the "Whittell property", situated in section 10, lot 2, township 13 north, range 18 east, Mount Diablo Meridian, Nevada, containing 34.4 acres more or less.

Sec. 3. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 7 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 2 of this Act. In addition, the Act of August 5, 1970 (Public Law 91-372) is hereby amended to remove the limitation on expenditures of $12,500,000 as it applies to the area described in the Act of August 5, 1970 (84 Stat. 694).

16 USC 460*l*-9.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1614 accompanying H.R. 13221 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-1298 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
- Oct. 3, H.R. 13221 considered and passed House.
- Oct. 9, considered and passed Senate.
- Oct. 14, Considered and passed House.

Public Law 95-606
95th Congress

An Act

To promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes.

Nov. 8, 1978
[S. 2727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Amateur Sports Act of 1978".

Amateur Sports Act of 1978. 36 USC 371 note.

OLYMPIC COMMITTEE REORGANIZATION

SECTION 1. (a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), hereinafter in this Act referred to as "the Act", is amended in the first section—

36 USC 371.

(1) by striking out "That the following persons, to wit:" and inserting in lieu thereof the following:

"TITLE I—CORPORATION

"SEC. 101. The following persons, to wit:";

(2) in the first sentence by striking out "corporation" before the period and inserting in lieu thereof "Corporation"; and

(3) by amending the last sentence thereof to read as follows: "The Corporation shall maintain its principal offices and national headquarters in such place in the United States as is determined by the Corporation, and may hold its annual and special meetings in such places as the Corporation shall determine.".

(b) The Act is further amended by striking out sections 2 through 12 and inserting in lieu thereof the following:

36 USC 372-382.

"SEC. 102. A majority of the persons named in section 101 of this Act, or their successors, are hereby authorized to meet to complete the organization of the Corporation by the adoption of a constitution and bylaws, the election of officers, and by doing all things necessary to carry into effect the provisions of this Act.

36 USC 372.

"SEC. 103. As used in this Act, the term—

Definitions. 36 USC 373.

"(1) 'amateur athlete' means any athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes;

"(2) 'amateur athletic competition' means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete;

"(3) 'amateur sports organization' means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States which sponsors or arranges any amateur athletic competition;

"(4) 'Corporation' means the United States Olympic Committee;

"(5) 'international amateur athletic competition' means any amateur athletic competition between any athlete or athletes representing the United States, either individually or as part of a team, and any athletic or athletes representing any foreign country;

"(6) 'national governing body' means an amateur sports organization which is recognized by the Corporation in accordance with section 201 of this Act; and

"(7) 'sanction' means a certificate of approval issued by a national governing body.

Objects and purposes.
36 USC 374.

"SEC. 104. The objects and purposes of the Corporation shall be to—

"(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

"(2) coordinate and develop amateur athletic activity in the United States directly relating to international amateur athletic competition, so as to foster productive working relationships among sports-related organizations;

"(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic Games and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic Games and the Pan-American Games when held in the United States;

"(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

"(5) promote and support amateur athletic activities involving the United States and foreign nations;

"(6) promote and encourage physical fitness and public participation in amateur athletic activities;

"(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

"(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

"(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

"(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

"(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

"(12) encourage and provide assistance to amateur athletic activities for women;

"(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals; and

"(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented.

"SEC. 105. (a) The Corporation shall have perpetual succession and power to— 36 USC 375.

"(1) serve as the coordinating body for amateur athletic activity in the United States directly relating to international amateur athletic competition;

"(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization;

"(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games, and obtain, either directly or by delegation to the appropriate national governing body, amateur representation for such games;

"(4) recognize eligible amateur sports organizations as national governing bodies for any sport which is included on the program of the Olympic Games or the Pan-American Games;

"(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes which involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and which arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the Corporation;

"(6) sue and be sued;

"(7) make contracts;

"(8) acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

"(9) accept gifts, legacies, and devices in furtherance of its corporate purposes;

"(10) borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

"(11) provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the Corporation;

"(12) approve and revoke membership in the Corporation;

"(13) adopt and alter a corporate seal;

"(14) establish and maintain offices for the conduct of the affairs of the Corporation;

"(15) publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

"(16) do any and all acts and things necessary and proper to carry out the purposes of the Corporation.

"(b) The Corporation shall adopt and may amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Corporation may amend its constitution only if it—

"(1) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2); and

"(2) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

36 USC 376.

"SEC. 106. (a) Eligibility for membership in the Corporation shall be determined in accordance with the constitution and bylaws of the Corporation.

"(b) In its constitution and bylaws, the Corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

"(1) amateur sports organizations recognized as national governing bodies in accordance with section 201 of this Act;

"(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;

"(3) amateur sports organizations which conduct a national program or regular national amateur athletic competition in two or more sports which are included on the program of the Olympic Games or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

"(4) individuals not affiliated or associated with any amateur sports organization who in the Corporation's judgment represent the interests of the American public in the activities of the Corporation.

36 USC 377.

"SEC. 107. The Corporation shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

36 USC 378.

"SEC. 108. The Corporation shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

36 USC 379.

"SEC. 109. The Corporation may acquire any or all of the assets of the existing unincorporated association, known as 'The United States Olympic Association', upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such unincorporated association.

36 USC 380.

"SEC. 110. (a) Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

"(1) the symbol of the International Olympic Committee, consisting of 5 interlocking rings;

"(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with 5 interlocking rings displayed on the chief;

"(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the Corporation; or

"(4) the words 'Olympic', 'Olympiad', 'Citius Altius Fortius', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; popularly known as the Trademark Act of 1946). However, any person who

15 USC 1051 note.

actually used the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a) (3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

"(b) The Corporation may authorize contributors and suppliers of goods or services to use the trade name of the Corporation as well as any trademark, symbol, insignia, or emblem of the International Olympic Committee or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation or United States Olympic or Pan-American team or team members.

"(c) The Corporation shall have exclusive right to use the name 'United States Olympic Committee'; the symbol described in subsection (a)(1); the emblem described in subsection (a)(2); and the words 'Olympic', 'Olympiad', 'Citius Altius Fortius' or any combination thereof subject to the preexisting rights described in subsection (a).

36 USC 381.

"SEC. 111. As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served.

36 USC 382.

"SEC. 112. The right to alter, amend, or repeal this Act at any time is hereby expressly reserved.

Reports to President and Congress.
36 USC 382a.

"SEC. 113. (a) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.

Reports to Speaker of House and President of Senate.

"(b) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the Speaker of the House of Representatives and to the President of the Senate a detailed report of those grants authorized to the Corporation pursuant to the provisions of section 211 of the Act and a full and complete statement of the expenditures of such funds made available. The report shall be referred to the Committee on Appropriations of each House and shall include a detailed and comprehensive description of those programs which the Corporation anticipate it will finance during the next fiscal year out of such funds made available pursuant to the provisions of section 211 of the Act. The Corporation shall continue to transmit the report required under this subsection (b) until the total sums made available under section 211 of the Act have been expended.

36 USC 382b.

"SEC. 114. In its constitution and bylaws, the Corporation shall establish and maintain provisions for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Pan-American Games, world championship competition, or other such protected competition as defined in such constitution and bylaws.".

NATIONAL GOVERNING BODIES

SEC. 2. The Act, as amended by section 1 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE II—NATIONAL GOVERNING BODIES

36 USC 391.

"SEC. 201. (a) For any sport which is included on the program of the Olympic Games or the Pan-American Games, the Corporation is authorized to recognize as a national governing body an amateur sports organization which files an application and is eligible for such recognition, in accordance with the provisions of subsection (b) of this section. The Corporation shall recognize only one national governing body for each sport for which an application is made and approved. Prior to the recognition of a national governing body under the authority granted under this title and in accordance with the procedures and requirements of this section, the Corporation shall hold a hearing open to the public on the application for such recognition. The Corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the Corporation's principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing.

Notice.

"(b) No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

"(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition, and has the managerial and financial capability to plan and execute its obligations;

"(2) submits an application for recognition, in such form as the Corporation shall require, as a national governing body and, upon application, submits a copy of its corporate charter and bylaws and any additional information as is considered necessary or appropriate by the Corporation;

"(3) agrees to submit, upon demand of the Corporation, to binding arbitration conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving its recognition as a national governing body, as provided for in section 205 of this title, or involving the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, as provided for in the Corporation's constitution and bylaws;

"(4) demonstrates that it is autonomous in the governance of its sport, in that it independently determines and controls all matters central to such governance, does not delegate such determination and control, and is free from outside restraint, and demonstrates that it is a member of no more than one international sports federation which governs a sport included on the program of the Olympic Games or the Pan-American Games;

"(5) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or to any amateur sports organization which conducts programs in the sport for which recognition is sought, or to both;

"(6) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate;

"(7) is governed by a board of directors or other such governing board whose members are selected without regard to race, color, religion, national origin or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on such board of directors or other such governing board;

"(8) demonstrates that its board of directors or other such governing board includes among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition in the sport for which recognition is sought within the preceding 10 years, and that the membership and voting power held by such individuals is not less than 20 percent of such membership and voting power held in that board of directors or other such governing board;

"(9) provides for reasonable direct representation on its board of directors or other such governing board for any amateur sports organization which, in the sport for which recognition is sought, conducts, on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition, a national program or regular national amateur athletic competition, and ensures that such representation shall reflect the nature, scope, quality, and strength of the programs and competitions of such amateur sports organization in relation to all other such programs and competitions in such sport in the United States;

"(10) demonstrates that none of its officers are also officers of any other amateur sports organization which is recognized as a national governing body;

"(11) provides procedures for the prompt and equitable resolution of grievances of its members;

"(12) does not have eligibility criteria relating to amateur status which are more restrictive than those of the appropriate international sports federation; and

"(13) demonstrates, if it is an amateur sports organization seeking recognition as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under section 202 of this Act.

"(c)(1) Except as provided in paragraph (2), any amateur sports organization which on the date of enactment of this title is recognized by the Corporation to represent a particular sport shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of 2 years from the date of enactment of this title from meeting the requirements of subsection (b) of this section, and during the 2-year period shall take the necessary actions to meet such requirements if it desires to retain its recognition. After the expiration of the 2-year period, such an organization shall continue as the national governing body for that sport unless the Corporation determines that such organization is not in compliance with the requirements of subsection (b) of this section, in which event the Corporation shall—

"(A) suspend the recognition of such national governing body;

"(B) revoke the recognition of such national governing body; or

"(C) extend the 2-year period for not longer than 1 year, if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements.

If, at the end of the extension period referred to in subparagraph (C) of this paragraph, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body. Any such national governing body aggrieved by the Corporation's determination under this subsection may submit a demand for arbitration in accordance with section 205 (c) of this title.

"(2) Notwithstanding the provisions of paragraph (1), the Corporation may suspend or revoke the recognition of a national governing body during the 2-year period if such suspension or revocation is for the same reason as the Corporation could have revoked or suspended such national governing body prior to the date of the enactment of this title.

"(d) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with subsection (a) of this section, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

36 USC 392.

"SEC. 202. (a) For the sport which it governs, a national governing body is under duty to—

"(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

"(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

"(3) keep amateur athletes informed of policy matters and reasonably reflect the views of such athletes in its policy decisions;

"(4) promptly review every request submitted by an amateur sports organization or person for a sanction (A) to hold an international amateur athletic competition in the United States; or (B) to sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, and determine whether to grant such sanction, in accordance with the provisions of subsection (b) of this section;

"(5) allow an amateur athlete to compete in any international amateur athletic competition conducted under its auspices or that of any other amateur sports organization or person, unless it establishes that its denial was based on evidence that the organization or person conducting the competition did not meet the requirements stated in subsection (b) of this section;

"(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;

"(7) encourage and support amateur athletic sports programs for handicapped individuals and the participation of handicapped individuals in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals;

"(8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

"(9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

"(b) As a result of its review under subsection (a)(4) of this section, if a national governing body does not determine by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport, the national governing body shall promptly grant to an amateur sports organization or person a sanction to—

"(1) hold an international amateur athletic competition in the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) demonstrates that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition, and

"(C) submits to the national governing body an audited or notarized financial report of similar events, if any, conducted by the amateur sports organization or person; or

"(2) sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, if such amateur sports organization or person—

"(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

"(B) submits a letter from the appropriate entity which will hold the international amateur athletic competition certifying that—

"(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

"(ii) appropriate provision has been made for validation of records which may be established during the competition,

"(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

"(iv) the competition will be conducted by qualified officials,

"(v) proper medical supervision will be provided for athletes who will participate in the competition, and

"(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition; and

"(C) submits a report of the most recent trip, if any, to a foreign country which the amateur sports organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition.

36 USC 393.

"SEC. 203. For the sport which it governs, a national governing body is authorized to—

"(1) represent the United States in the appropriate international sports federation;

"(2) establish national goals and encourage the attainment of those goals;

"(3) serve as the coordinating body for amateur athletic activity in the United States;

"(4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;

"(5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for the determination of eligibility standards for participation in such competitions, except for that amateur athletic competition specified in section 206 of this title;

"(6) recommend to the Corporation individuals and teams to represent the United States in the Olympic Games and the Pan-American Games; and

"(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

Review.
36 USC 394.

"SEC. 204. The Corporation may review all matters relating to the continued recognition of a national governing body and may take such action as it considers appropriate, including, but not limited to, placing conditions upon the continued recognition of the national governing body.

Complaints.
36 USC 395.

"SEC. 205. (a)(1) Any amateur sports organization or person which belongs to or is eligible to belong to a national governing body may seek to compel such national governing body to comply with the requirements of sections 201(b) and 202 of this title by filing a written complaint with the Corporation. Such organization or person may take such action only after having exhausted all available remedies within such national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. The Corporation shall establish procedures for the filing and disposition of complaints received under this subsection. A copy of the complaint shall also be served on the applicable national governing body.

Filing procedures.

"(2) Within 30 days after the filing of the complaint, the Corporation shall determine whether the organization has exhausted its remedies within the applicable national governing body, as provided in paragraph (1) of this subsection. If the Corporation determines that any such remedies have not been exhausted, it may direct that such remedies be pursued before the Corporation will further consider the complaint.

Hearing.

"(3)(A) Within 90 days after the filing of a complaint under paragraph (1) of this subsection, if the Corporation determines that all such remedies have been exhausted, it shall hold a hearing to receive testimony for the purpose of determining if such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title.

"(B) If the Corporation determines, as a result of the hearings conducted pursuant to this subsection, that such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title, it shall so notify the complainant and such national governing body.

"(C) If the Corporation determines, as a result of hearings conducted pursuant to this subsection, that such national governing body is not in compliance with the requirements of sections 201(b) and 202 of this title, it shall—

"(i) place such national governing body on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable such national governing body to comply with such requirements, or

"(ii) revoke the recognition of such national governing body.

"(D) If the Corporation places a national governing body on probation pursuant to this paragraph, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements. If, at the end of the period allowed by the Corporation, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body.

"(b)(1) Any amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing with the Corporation a written application for such recognition. Such application shall be filed (A) within the 1-year period after the final day of any Olympic Games, in the case of a sport for which competition is held in the Olympic Games or in both the Olympic and Pan-American Games; or (B) within the 1-year period after the final day of any Pan-American Games, in the case of a sport for which competition is held in the Pan-American Games and not in the Olympic Games. If two or more organizations file applications for the same sport, such applications shall be considered in a single proceeding.

"(2) Any application filed under this subsection shall be filed with the Corporation by registered mail. The Corporation shall establish procedures for the filing and disposition of applications received under this subsection. A copy of any such application for recognition shall also be served on the applicable national governing body. The Corporation shall inform the applicant for recognition that its application has been received.

Hearing.

"(3) Within 180 days after receipt of an application filed under this subsection, the Corporation shall conduct a formal hearing to determine the merits of the application. The Corporation shall publish notice of the time and place of such hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. In the course of such hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their respective positions. During such hearing, the applicant amateur sports organization must establish by a preponderance of the evidence that it meets the criteria for recognition as a national governing body under section 201(b) of this title, and that—

"(A) the national governing body does not meet the criteria of section 201(b) or 202; or

"(B) it more adequately meets the criteria of section 201(b), is capable of more adequately meeting the criteria of section 202, and provides or is capable of providing a more effective national program of competition, than the national governing body in the sport for which it seeks recognition.

"(4) Within 30 days of the close of the hearing required under this subsection, the Corporation shall—

"(A) uphold the right of the national governing body to continue as the national governing body for its sport;

"(B) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

"(C) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

"(D) decide to place the national governing body on probation of not to exceed 180 days, pending the compliance of the national governing body, if such national governing body would have retained recognition except for a minor deficiency in one of the requirements of section 201(b) or 202 of this title.

If the national governing body does not comply within the prescribed time period, the Corporation shall revoke the recognition of the national governing body and either recognize the applicant as the national governing body, or declare a vacancy in the national governing body for that sport.

"(5) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with this subsection, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

"(c)(1) The right to review by any party aggrieved by a determination of the Corporation under the requirements of this section or section 201(c) shall be to any regional office of the American Arbitration Association. Such demand for arbitration shall be submitted within 30 days of the determination of the Corporation. Upon receipt of such a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the Corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand, except that—

"(A) the arbitration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

"(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding mutually agree to the use of another site; and

"(C) the arbitration hearing shall be open to the public.

"(2) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this Act prior to making a final award, if mutually agreed to by the parties to the proceeding and achieved in a manner not inconsistent with the constitution and bylaws of the Corporation.

"(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding. The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

"(4) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties.

"(5) Final decision of the arbitrators shall be binding upon the involved parties, if such award is not inconsistent with the constitution and bylaws of the Corporation.

"(6) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before a final decision is made, except that, if any contesting party makes such a motion, all parties to the decision must agree to reopen the hearings if such reopening would result in the arbitrators' decision being delayed beyond the specific period agreed upon at the beginning of the arbitration proceedings.

36 USC 396.

"Sec. 206. Any amateur sports organization which conducts amateur athletic competition, participation in which is restricted to a specific class of amateur athletes (such as high school students, college students, members of the Armed Forces, or similar groups or categories), shall have exclusive jurisdiction over such competition. If such an amateur sports organization wishes to conduct international amateur athletic competition to be held in the United States, or sponsor international amateur athletic competition to be held outside the United States, it shall obtain a sanction from the appropriate national governing body.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1627 (Comm. on the Judiciary).
SENATE REPORT No. 95-770 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed Senate.
Sept. 26, considered and failed of passage in House.
Oct. 11, 13, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 8, Presidential statement.

Public Law 95-607
95th Congress

An Act

To amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.

Nov. 8, 1978
[S. 2981]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Transportation Act, amendment.
Local Rail Service Assistance Act of 1978.
49 USC 1651 note.

TITLE I—LOCAL RAIL SERVICE ASSISTANCE

SHORT TITLE

SEC. 101. This title may be cited as the "Local Rail Service Assistance Act of 1978".

EXPANSION OF ASSISTANCE

SEC. 102. Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended—

(1) in paragraph (2), by striking out "purchasing a line of railroad or other rail properties" and inserting in lieu thereof "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein,";

(2) in paragraph (3), by striking out "and" immediately after the semicolon;

(3) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.".

COST SHARING

SEC. 103. Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended to read as follows:

Federal share.

"(g) The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State

State share.

salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 104. Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period beginning October 1, 1978, and ending September 30, 1979, each State which is eligible to receive rail service assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated.

"(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance with this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

"(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section). Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

"(3)(A) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

Reallocation of funds.

"(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979.

State agreements.

"(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.".

PLANNING ASSISTANCE

SEC. 105. Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

Ante, p. 3060.

Infra.

STATE ELIGIBILITY

SEC. 106. (a) Paragraph (2) of section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)(1)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding immediately before the semicolon at the end thereof the following: ", and (B) such State plan includes, as

soon as practicable after the date of enactment of the Local Rail Service Assistance Act of 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after such date of enactment and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section". *Ante*, p. 3059.

49 USC 1654 note.

(b) During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section, the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project.

PROJECT ELIGIBILITY

SEC. 107. Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(C) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)), except that a line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior year;

"(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

"(C) an application for a certificate of abandonment or discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

"(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(E) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)).

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

"(4) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

"(B) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), except that a line of railroad or related project which was eligible for assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(5) On or before August 1 of each year, each common carrier by railroad subject to part I of the Interstate Commerce Act shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.". *Ante*, p. 1337.

REHABILITATION ASSISTANCE

Sec. 108. Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (o) as subsection (p), and by inserting immediately after subsection (n) the following new subsection:

"(o) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

"(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

"(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended—

Ante, p. 3063.

(1) in subsection (g), subsection (m)(1), and the first sentence of subsection (p) (as redesignated by section 108 of this title), by striking out "(o)" each place it appears and inserting in lieu thereof "(p)"; and

45 USC 762. *Infra*.

(2) by amending the third sentence of subsection (p) (as so redesignated) to read as follows: "In addition, any appropriated sums remaining after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section.".

Repeal.

(b)(1) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

(2) The table of contents for title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out "Sec. 810. Rail bank.".

EFFECTIVE DATE

49 USC 1654 note.

SEC. 110. The provisions of this title shall take effect on October 1, 1978.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 201. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by striking out the comma at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(2) by adding immediately after paragraph (4)(B) the following new subparagraph:

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)),"; and

45 USC 715.
45 USC 743.

(3) by adding at the end thereof the following new paragraphs:

"(7)(A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

45 USC 716.
45 USC 743.

"(B) As used in this paragraph, the term 'additional rail passenger service' means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

"Additional rail passenger service."

"(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

Study.

"(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 303 (b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

45 USC 743.

Report to Congress.

TITLE III—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976; RELATED PROVISIONS

INCREASE IN FUNDING LIMITATION ON PURCHASE OF TRUSTEE CERTIFICATES; EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

Sec. 301. (a) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (d)(3), by striking out the last sentence; and

(2) in subsection (e), by striking out "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title,".

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (7 U.S.C. 827 (a) and (d)) are amended by striking out "1978" and inserting in lieu thereof "1979".

45 USC 827.

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "March 31" each place it appears and inserting in lieu thereof "September 30".

SECURITY FOR TRUSTEE CERTIFICATES

Sec. 302. Section 505(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(2)) is amended—

(1) in the last sentence of subparagraph (B), by striking out "No certificate" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, no certificate"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term 'senior debt' means—

11 USC 205.
"Senior debt."

"(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

"(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.".

FRA REVIEW

SEC. 303. The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement.

45 USC 825 note.

TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

RENEWAL

SEC. 401. (a) Section 15(8)(c) of the Interstate Commerce Act (49 U.S.C. 15(8)(c)) is amended—

(1) in clause (i), by striking out "within 2 years after the date of the enactment of this subdivision" and inserting in lieu thereof "prior to July 1, 1980";

(2) in clause (ii), by inserting "and" after the semicolon; and

(3) by striking out clauses (iii) and (iv) and inserting in lieu thereof a new clause (iii) to read as follows:

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.".

(b) The last sentence of section 15(8)(d) of the Interstate Commerce Act (49 U.S.C. 25(8)(d)) is amended by striking out "clauses (iii) or (iv)" and inserting in lieu thereof "clause (iii)".

49 USC 15.

CAR SERVICE

SEC. 402. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

Petition.
Notice
and hearing.

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1482 accompanying H.R. 11979 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-1159 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Sept. 23, considered and passed Senate.

Oct. 11, 13, H.R. 11979 considered and passed House; passage vacated, and S. 2981, amended, passed in lieu.

Oct. 15, Senate concurred in House amendments.

Public Law 95-608
95th Congress

An Act

To establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

Nov. 8, 1978
[S. 1214]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1978".

Indian Child Welfare Act of 1978.
25 USC 1901 note.

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

25 USC 1901.

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

Congress responsibility for protection of Indians.

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

25 USC 1902.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

Definitions.
25 USC 1903.

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689); 43 USC 1606.

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended; 43 USC 1602.

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

Indian tribes, exclusive jurisdiction over Indian child custody proceedings.
25 USC 1911.

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

Foster care placement, court proceedings.
25 USC 1912.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Parental rights, voluntary termination.
25 USC 1913.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

25 USC 1914.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

Adoptive placement of Indian children.
25 USC 1915.

Sec. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

Petition, return of custody.
25 USC 1916.

Sec. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

Removal from foster care home.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

25 USC 1917.

Sec. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

Reassumption, jurisdiction over child custody proceedings.
25 USC 1918.
18 USC prec. 1151 note.
25 USC 1321.
28 USC 1360 note.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

States and Indian tribes, agreements.
25 USC 1919.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

Improper removal of child from custody. 25 USC 1920.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

25 USC 1921.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

Emergency removal of child. 25 USC 1922.

SEC. 113. None of the provisions of this title, except sections 101(a), 108, and 109, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

Effective date. 25 USC 1923.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

25 USC 1931.

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

42 USC 620, 1397.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV-B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV-B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

Additional services.
25 USC 1932.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

Funds.
25 USC 1933.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended.

25 USC 13.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401).

25 USC 1934.

25 USC 1603.

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

Final decree, information to be included.

25 USC 1951.

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

Effective date. Rules and regulations.

25 USC 1952.

SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

TITLE IV—MISCELLANEOUS

Day schools.
25 USC 1961.

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

Report to congressional committees.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

Copies to each State.
25 USC 1962.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

25 USC 1963.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1386 accompanying H.R. 12533 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-597 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 123 (1978): Nov. 4, considered and passed Senate.
Vol. 124 (1978): Oct. 14, H.R. 12533 considered and passed House; passage vacated, and S. 1214, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.

Public Law 95-609
95th Congress

An Act

To extend provisions of the Noise Control Act of 1972 for one year, and for other purposes.

Nov. 8, 1978
[S. 3083]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Quiet Communities Act of 1978".

Quiet Communities Act of 1978.
42 USC 4901 note.
42 USC 4913.

SEC. 2. Section 14 of the Noise Control Act of 1972 is amended to read as follows:

"QUIET COMMUNITIES, RESEARCH, PUBLIC INFORMATION

"SEC. 14. To promote the development of effective State and local noise control programs, to provide an adequate Federal noise control research program designed to meet the objectives of this Act, and to otherwise carry out the policy of this Act, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

"(a) develop and disseminate information and educational materials to all segments of the public on the public health and other effects of noise and the most effective means for noise control, through the use of materials for school curricula, volunteer organizations, radio and television programs, publication, and other means;

"(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

"(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decision-making, with special emphasis on the nonauditory effects of noise;

"(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under sections 6, 7, and 8 of this Act;

42 USC 4905, 4906 note, 4907.

"(3) investigation, development, and demonstration of monitoring equipment and other technology especially suited for use by State and local noise control programs;

"(4) investigation of the economic impact of noise on property and human activities; and

"(5) investigation and demonstration of the use of economic incentives (including emission charges) in the control of noise;

"(c) administer a nationwide Quiet Communities Program which shall include, but not be limited to—

"(1) grants to States, local governments, and authorized regional planning agencies for the purpose of—

"(A) identifying and determining the nature and extent of the noise problem within the subject jurisdiction;

"(B) planning, developing, and establishing a noise control capacity in such jurisdiction, including purchasing initial equipment;

"(C) developing abatement plans for areas around major transportation facilities (including airports, highways, and rail yards) and other major stationary sources of noise, and, where appropriate, for the facility or source itself; and,

"(D) evaluating techniques for controlling noise (including institutional arrangements) and demonstrating the best available techniques in such jurisdiction;

"(2) purchase of monitoring and other equipment for loan to State and local noise control programs to meet special needs or assist in the beginning implementation of a noise control program or project;

"(3) development and implementation of a quality assurance program for equipment and monitoring procedures of State and local noise control programs to help communities assure that their data collection activities are accurate;

"(4) conduct of studies and demonstrations to determine the resource and personnel needs of States and local governments required for the establishment and implementation of effective noise abatement and control programs; and

"(5) development of educational and training materials and programs, including national and regional workshops, to support State and local noise abatement and control programs;

except that no actions, plans or programs hereunder shall be inconsistent with existing Federal authority under this Act to regulate sources of noise in interstate commerce;

"(d) develop and implement a national noise environmental assessment program to identify trends in noise exposure and response, ambient levels, and compliance data and to determine otherwise the effectiveness of noise abatement actions through the collection of physical, social, and human response data;

"(e) establish regional technical assistance centers which use the capabilities of university and private organizations to assist State and local noise control programs;

"(f) provide technical assistance to State and local governments to facilitate their development and enforcement of noise control, including direct onsite assistance of agency or other personnel with technical expertise, and preparation of model State or local legislation for noise control; and

"(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act.".

42 USC 3001 note.
49 USC 1431.
42 USC 4906 note.

SEC. 3. The fourth sentence of section 611(c)(1) of the Federal Aviation Act, as amended by section 7 of the Noise Control Act of 1972, is amended by striking "a reasonable time" and inserting in lieu thereof "ninety days", and by adding before the period "and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations".

SEC. 4. Section 11(a) of the Noise Control Act of 1972 is amended by inserting "(1)" after "(a)" and by adding the following new paragraph: 42 USC 4910.

"(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be subject to a civil penalty not to exceed $10,000 per day of such violation". Penalty.

SEC. 5. Section 6 of the Noise Control Act of 1972 is amended by adding the following subsection: 42 USC 4905.

"(f) At any time after the promulgation of regulations respecting a product under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more stringent standard under subsection (c) of this section is necessary to protect the public health and welfare. The Administration shall publish notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition respond by (1) publication of proposed revised regulations in accordance with subsection (c)(3) of this section, or (2) publication in the Federal Register of a decision not to publish such proposed revised regulations at that time, together with a detailed explanation for such decision.". Notice, publication in Federal Register.

SEC. 6. Section 19 of the Noise Control Act of 1972 is amended to read as follows: 42 USC 4918.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out this Act (other than for research and development) $15,000,000 for the fiscal year ending September 30, 1979.".

SEC. 7. (a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended by deleting the hyphen between the words "solid" and "waste" in the last line. 42 USC 6901.

(b) Section 1004 of the Solid Waste Disposal Act is amended by— 42 USC 6903.

(1) revising paragraph (8) by striking out everything after "improvement of land";

(2) revising paragraph (10) by striking out "disposal" and inserting in lieu thereof "management";

(3) by revising paragraph (29) to read as follows:

"(29) The term 'solid waste management facility' includes— "Solid waste management facility."

"(A) any resource recovery system or component thereof,

"(B) any system, program, or facility for resource conservation, and

"(C) any facility for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.".

(c) Section 1008(a)(3) of the Solid Waste Disposal Act is amended by striking out "title IV" and inserting in lieu thereof "subtitle D". 42 USC 6907.

(d) Section 1008(b) of the Solid Waste Disposal Act is amended by striking ", pursuant to this section" and by inserting after "suggested guidelines" each time it appears the phrase "or proposed regulations under this Act".

(e) Section 2003 of the Solid Waste Disposal Act is amended by inserting "Federal agencies," after "to provide". 42 USC 6913.

42 USC 6922. (f) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (5) by striking out the semicolon after "subtitle" and substituting a comma, and by striking out "and" and inserting in lieu thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); and"; and 33 USC 1411.

(2) revising paragraph (6) by adding a close parenthesis after "subtitle" the first time it appears.

42 USC 6923. (g) Section 3003 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(4) by striking out the period after "subtitle" and substituting a comma, and by adding at the end thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."; and

(2) revising subsection (b) by striking out "subtitle" after "the regulations promulgated by the Administrator under this" and inserting in lieu thereof "section".

42 USC 6925. (h) Section 3005(a) of the Solid Waste Disposal Act is amended by inserting "treatment, storage, or" after "and upon and after such date the".

42 USC 6926. (i) Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out "required for" wherever it appears in the subsection and inserting in lieu thereof "of"; and

(2) inserting the word "may" immediately after "3005," and before "submit".

42 USC 6927. (j) Section 3007(a)(1) of the Solid Waste Disposal Act is amended by striking out "or disposed of" and inserting in lieu thereof "disposed of, or transported from".

42 USC 6928. (k) Section 3008 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (d)(1) to read as follows:

"(1) transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),"; and

(2) revising subsection (d)(2) to read as follows:

"(2) treats, stores, or disposes of any hazardous waste identified or listed under this subtitle without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."

42 USC 6947. (l) Section 4007(C) of the Solid Waste Disposal Act is amended by redesignating subsection "(C)" as "(c)".

42 USC 6961. (m) Section 6001 of the Solid Waste Disposal Act is amended by inserting "or management" between "disposal" and "of solid waste".

42 USC 6962. (n) Section 6002 of the Solid Waste Disposal Act is amended by—

(1) deleting "(A)" after "(1)" in subsection (c) and changing "(B)" and "(C)" to "(2)" and "(3)", respectively; and changing "(i)", "(ii)", and "(iii)" to "(A)", "(B)", and "(C)", respectively;

(2) in subsection (c)(3) as redesignated, striking "Contracting" and inserting in lieu thereof "After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting"; and

(3) inserting in the second sentence of subsection (e) after "containing such materials" the phrase "and with respect to certification by vendors of the percentage of recovered materials used,".

(o) Section 6004 of the Solid Waste Disposal Act is amended by— 42 USC 6964.

(1) revising subsection (a)(1)(A) by striking out "disposal" and inserting in lieu thereof "management";

(2) revising subsection (a)(1)(B) by striking out "disposal" and inserting in lieu thereof "management"; and

(3) revising subsection (b) by striking out "Secretary" and inserting in lieu thereof "Administrator".

(p) Section 7002 of the Solid Waste Disposal Act is amended by— 42 USC 6972.

(1) revising subsection (c) by striking out "section 212" and inserting in lieu thereof "subtitle C"; and

(2) revising subsection (e) by striking out "requiring" and inserting in lieu thereof "require".

(q) Section 7003 of the Solid Waste Disposal Act is amended by striking out "for" before "contributing to the alleged disposal". 42 USC 6973.

(r) Section 7007 of the Solid Waste Disposal Act is amended by— 42 USC 6977.

(1) revising subsection (b)(1)(A) by striking out "disposal" and inserting "management"; and by striking out "resources" and inserting "resource";

(2) revising subsection (b)(1)(B) by striking out "disposal" and inserting "management"; and

(3) revising subsection (c)(3) by striking out "disposal" and inserting "management" in lieu thereof.

(s) Section 8001(a) of the Solid Waste Disposal Act is amended by— 42 USC 6981.

(1) revising paragraph (2) by striking out "disposal" and inserting "management" in lieu thereof; and

(2) revising paragraph (13) by inserting "treatment," after "for purpose of".

(t) Section 8002 of the Solid Waste Disposal Act is amended by— 42 USC 6982.

(1) revising paragraph (1) of subsection (g) by inserting a comma between "shale" and "liquefaction";

(2) revising paragraph (1) of subsection (j) by inserting "the Secretary of Energy, the Chairman of the Council of Economic Advisors," before "and a representative of the Office of Management and Budget,";

(3) revising paragraph (2) of subsection (j) by striking "(2)(D)" and inserting "(1)(D)" in lieu thereof;

(4) revising paragraph (3) of subsection (j) by striking "(2)(D)" and inserting "(1)" in lieu thereof; and

(5) revising subsection (1) by striking out "required under subsection (a), (h), (i) and (j)" and inserting in lieu thereof "required under subsections (a), (h), and (i)".

(u) Section 8003(a)(3) of the Solid Waste Disposal Act is amended by striking out "discarded materials" and inserting "solid waste" in lieu thereof. 42 USC 6983.

42 USC 6984.

(v) Section 8004(a)(1) of the Solid Waste Disposal Act is amended by striking out "discarded material" and inserting "solid waste" in lieu thereof.

Aircraft noise effects, joint study.
49 USC 1431 note.

SEC. 8. (a) The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly study the aircraft noise effects from an airport on communities located in a State other than the State in which the airport is located. The criteria to be used in selecting the airport to be studied shall include:

(1) the airport shall be operated by a State, a unit of general purpose local government of a State, or a special purpose entity constituted for the purpose of operating an airport, and

(2) the airport shall have a point on the airport boundary within one nautical mile from a State boundary, and

(3) the airport shall have had in excess of sixty thousand scheduled air carrier departures during the preceding calendar year.

(b) The study shall be conducted in cooperation with the airport operator, appropriate Federal, State, and local officials, and the appropriate Metropolitan Planning Organization.

Report to Congress.

(c) The Secretary and the Administrator shall prepare and submit to Congress a report within nine months of the conclusion of the study, but no later than twenty-four months after enactment of this section.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1171 accompanying H.R. 12647 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-875 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 19, considered and passed Senate.
Oct. 10, H.R. 12647 considered and passed House, passage vacated, and S. 3083, amended, passed in lieu.
Oct. 13, Senate concurred in House amendments.

Public Law 95-610
95th Congress

An Act

To amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes.

Nov. 8, 1978
[S. 274]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Armed Forces, union organizations, prohibition.
10 USC 975 note.

SECTION 1. (a) The Congress makes the following findings:

(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

(2) Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

(b) The purpose of this Act is to promote the readiness of the armed forces to defend the United States.

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

10 USC 975.

"(a) In this section:

Definitions.

"(1) 'Member of the armed forces' means (A) a member of the armed forces who is serving on active duty, or (B) a member of a Reserve component while performing inactive-duty training.

"(2) 'Military labor organization' means any organization that engages in or attempts to engage in—

"(A) negotiating or bargaining with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

"(B) representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

"(C) striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(i) negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

"(ii) recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

"(iii) make any change with respect to the terms or conditions of military service of individual members of the armed forces.

"(3) 'Civilian officer or employee' means an employee, as such term is defined in section 2105 of title 5.

"(b) It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization—

"(1) to join or maintain membership in such organization; or

"(2) to attempt to enroll any other member of the armed forces as a member of such organization.

"(c) It shall be unlawful for any person—

"(1) to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or

"(2) to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members;

"(3) to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(A) negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces,

"(B) recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

"(C) make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or

"(4) to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d).

"(d) It shall be unlawful for any military labor organization to represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

"(e) No member of the armed forces, and no civilian officer or employee, may—

"(1) negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or

"(2) permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d).

Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

Penalties.

"(f) Whoever violates subsection (b), (c), or (d) shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000.

"(g) Nothing in this section shall limit the right of any member of the armed forces—

"(1) to join or maintain membership in any organization or association not constituting a 'military labor organization' as defined in subsection (a)(2) of this section;

"(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

"(3) to seek or receive information or counseling from any source;

"(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

"(5) to petition the Congress for redress of grievances; or

"(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-894, Pt. I (Comm. on Armed Services) and Pt. II (Comm. on Post Office and Civil Service).
SENATE REPORT No. 95-411 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Sept. 16, considered and passed Senate.
Vol. 124 (1978): Sept. 26, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.

Public Law 95-611
95th Congress

An Act

To amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979.

Nov. 8, 1978
[H.R. 10898]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

United States Railway Association. Appropriation authorization.

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1979, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $27,200,000. Sums appropriated under this subsection are authorized to remain available until expended.".

Membership, terms of office.

SEC. 2. Section 201(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(e)) is amended by adding at the end thereof the following new sentence: "Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors have been appointed and qualified.".

SEC. 3. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

"(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of the date of enactment of this sentence, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this Act, to be desirable; and

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $2,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and such railroad has in effect an employee stock ownership plan which has been approved by the Association.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1979.".

(b) Section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 211(d)(1) of the Regional Rail Reorganization Act of 1973, to maintain rail services in the region (as such term is defined in section 102(15) of such Act). The Secretary may not make any waiver under the preceding sentence after December 31, 1979.".

45 USC 702.

SEC. 4. (a) Section 206(d)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(d)(5)(C)) is amended by striking out "900 days" and inserting in lieu thereof "3 years".

45 USC 716 note.

(b) The amendment made by this Act shall be effective on January 2, 1974.

SEC. 5. Section 17(9)(f)(i) of the Interstate Commerce Act (49 U.S.C. 17(9)(f)(i)) is amended to read as follows:

"(i) a majority of the Commissioners, by public vote, agree to such further extension; and".

Investigation and study. 43 USC 975 note.

SEC. 6. (a) The Secretary of Transportation shall conduct an investigation and study for purposes of determining equitable rates to be charged for the rental of Alaska Railroad lands. In carrying out such investigation and study, the Secretary shall consider—

(1) the per centum increase in such rates proposed after 1977 as compared with rates in effect on January 1, 1977;

(2) the services and the quality thereof provided by the rentors of such land and the services and the quality thereof received by such rentors from such railroad;

(3) the burden on commerce which may result from such proposed rate increase; and

(4) such other factors as may be appropriate.

Report to Congress.

The Secretary shall report the results of such investigation and study to the Congress not later than one year after the date of enactment of this Act.

(b) Prior to 180 days after the date on which the Secretary's report pursuant to subsection (a) is received by the Congress, rental charges on lands rented by the Alaska Railroad shall not be increased by more than 100 per centum of the amount charged for such land on January 1, 1977.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1198 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 17, considered and passed House.
Sept. 14, considered and passed Senate, amended.
Oct. 13, House concurred in certain Senate amendments; in Nos. 3 and 5 with amendments.
Oct. 15, Senate concurred in House amendment to Senate amendments.

Public Law 95-612
95th Congress

An Act

To provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes.

Nov. 8, 1978
[S. 2093]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by—

Exchange Stabilization Fund.

(1) striking out "with the Treasurer of the United States" in the first sentence and inserting in lieu thereof "in the United States Treasury";

(2) striking out the second and third sentences; and

(3) amending the fourth sentence to read as follows: "The fund shall be available for expenditure, under the direction of the Secretary of the Treasury and in his discretion, for any purpose in connection with carrying out the provisions of this section, including the investment and reinvestment in direct obligations of the United States of any portions of the fund which the Secretary of the Treasury, with the approval of the President, may from time to time determine are not currently required for the purposes prescribed by this section: *Provided*, That the fund shall not be available for the payment of administrative expenses.".

SEC. 2. Section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following new subsection:

31 USC 822a.

"(d) The Secretary of the Treasury may, under such rules and regulations as he may prescribe, provide to personnel performing the international affairs functions of the Department of the Treasury allowances and benefits comparable to those provided by title IX of the Foreign Service Act of 1946, as amended.".

22 USC 1131.

SEC. 3. (a)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place at GS-16, GS-17, and GS-18, no more than 61 positions of the positions subject to the limitation of the first sentence of section 5108(a) of such title.

5 USC 5108 note.
5 USC 5101 *et seq.*

(2) A person may be appointed to a position placed at GS-16, GS-17, or GS-18 under the authority of paragraph (1) only if such person, immediately before the effective date of this Act, held a position or has reemployment rights to a position—

(A) the duties of which were comparable to those of the position to which he is to be appointed; and

(B) for which the compensation derived from the stabilization fund established under section 10 of the Gold Reserve Act of 1934 (31 U.S.C. 822a).

Appointments made under this paragraph may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments to GS-16, GS-17, and GS-18.

(3) The Secretary's authority under this subsection with respect to any position shall cease when the person first appointed to such position under paragraph (2) leaves such position.

(b) The first sentence of section 5108(a) of title 5, United States Code, is amended by striking out "3301" and inserting in lieu thereof "3362".

(c) For purposes of determining the aggregate number of positions which may be placed in GS-16, GS-17, or GS-18 under sections 5108(a) of title 5, United States Code, a position established under subsection (a) shall be deemed a GS-16 position.

Sec. 4. Section 51 of the Act of December 30, 1970 (84 Stat. 1659; 22 U.S.C. 276c-2), is amended by—

(1) amending the first sentence to read:

"Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States.";

(2) striking from the second sentence the words "the fund established pursuant to section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a))" and inserting in lieu thereof "funds appropriated to the Department of the Treasury"; and

(3) striking out the last sentence of the section.

Appropriation authorization.

Sec. 5. There are authorized to be appropriated not to exceed $24,000,000 for fiscal year 1979, including sums for official functions and reception and representation expenses, to carry out the international affairs functions of the Department of the Treasury.

Sec. 6. Section 10(b) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(b)) is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following:

Financial statement, submittal to congressional committees.

"(2) Within 30 days after the close of each calendar month beginning after the effective date of this paragraph, the Secretary of the Treasury shall provide to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a detailed financial statement of the fund respecting all agreements entered into or renewed, all transactions occurring during such month, and all liabilities projected to occur.".

Effective date.
31 USC 822a note.

Sec. 7. This Act shall take effect on October 1, 1978, or on such later date as funds are made available pursuant to appropriations Acts authorized by section 5 of this Act.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1126 (Comm. on Banking, Finance, and Urban Affairs).
SENATE REPORT No. 95-661 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
- Mar. 8, considered and passed Senate.
- May 16, considered and passed House, amended.
- June 23, Senate agreed to House amendment with amendments.
- Oct. 10, House concurred in Senate amendments with an amendment.
- Oct. 11, House vacated proceedings of Oct. 10; concurred in certain Senate amendments; in No. 1 with an amendment.
- Oct. 13, Senate concurred in House amendments.

Public Law 95-613
95th Congress

An Act

To extend the programs of assistance under title X and part B of title XI of the Public Health Service Act.

Nov. 8, 1978
[S. 2522]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1001(a) of the Public Health Service Act is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

Public Health Service Act, amendment.
42 USC 300.

(2) Section 1006 is amended by adding at the end thereof the following new subsection:

42 USC 300a-4.

"(d)(1) A grant may be made or a contract entered into under section 1001 or 1005 only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this title and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

42 USC 300, 300a-3.

"(2) In the case of any grant or contract under section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available.".

(b)(1) Section 1001(c) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for the fiscal year ending September 30, 1981".

42 USC 300a-1.

(3) Section 1004(b)(1) of such Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$105,000,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; 1980, and $138,900,000 for the fiscal year ending September 30, 1981".

42 USC 300a-2.

(4) Section 1005(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

42 USC 300a-3.

42 USC 300c-11.

SEC. 2. Section 1121(b)(5) of the Public Health Service Act is amended (A) by striking out "and" after "1977,". and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1191 accompanying H.R. 12370 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-822 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
- June 7, considered and passed Senate.
- Sept. 25, H.R. 12370 considered and failed of passage in House.
- Oct. 11, 13, H.R. 12370 considered and passed House; passage vacated and S. 2522, amended, passed in lieu.
- Oct. 15, Senate concurred in House amendments.

Public Law 95-614
95th Congress

An Act

To amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.

Nov. 8, 1978
[S. 553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

Cibola National Forest, N. Mex. Boundary extension.

A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.41 feet; thence north 0 degrees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between sections 13 and 14 on the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant; consisting of 7,461.34 acres, more or less: *Provided, however*, That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 460l-9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

16 USC 460*l*-9.

SEC. 3. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

Appropriation authorization.

SEC. 4. Effective October 1, 1979, there are authorized to be appropriated not more than $12,000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1668 accompanying H.R. 10679 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-516 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 28, considered and passed Senate.

Vol. 124 (1978): Oct. 3, H.R. 10679 considered and passed House; passage vacated, and S. 553, amended, passed in lieu.

Oct. 13, Senate concurred in House amendment with an amendment.

Oct. 15, House concurred in Senate amendment.

Public Law 95-615
95th Congress

An Act

To change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes.

Nov. 8, 1978
[H.R. 9251]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Treatment Extension Act of 1977".

Tax Treatment Extension Act of 1977.
26 USC 1 note.

SEC. 2. COMMUTING EXPENSES.

26 USC 62 note.

With respect to transportation costs paid or incurred after December 31, 1976, and before April 30, 1978, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 to transportation expenses in traveling between a taxpayer's residence and place of work shall be determined—

26 USC 62, 162, 262, 3101, 3303, 3401.

(1) without regard to Revenue Ruling 76-453 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules in effect before Revenue Ruling 76-453.

SEC. 3. FRINGE BENEFITS.

26 USC 61 note.

No regulations shall be issued in final form on or after October 1, 1977, and before July 1, 1978, providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Internal Revenue Code of 1954.

26 USC 61.

SEC. 4. CHANGES IN TREATMENT OF INCOME EARNED ABROAD.

(a) In General.—Subsection (d) of section 1011 of the Tax Reform Act of 1976 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

26 USC 911 note.

(b) Transitional Rule.—If for any taxable year beginning in 1977—

(1) an individual is entitled to the benefits of section 911 of the Internal Revenue Code of 1954, and

26 USC 911.

(2) such individual chooses to take to any extent the benefits of section 901 of such Code,

26 USC 901.

then such individual shall be treated for such taxable year as an individual for whom an unused zero bracket amount computation is provided by section 63(e) of such Code.

26 USC 63.

SEC. 5. SALARY REDUCTION PENSION PLANS, CASH AND DEFERRED PROFIT-SHARING PLANS, AND CAFETERIA PLANS.

Section 2006 of the Employee Retirement Income Security Act of 1974 is amended—

26 USC 401 note.

(1) by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1980", and

(2) by striking out "December 31, 1977" in subsection (d) and inserting in lieu thereof "December 31, 1979".

SEC. 6. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES.

26 USC 117 note.

Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxmethyl cellulose salts, and for other purposes", approved October 26, 1974 (Public Law 93-483), is amended to read as follows:

"(c) Effective Date.—The provisions of this section shall apply with respect to amounts received during calendar years 1973, 1974, and 1975, and, in the case of a member of a uniformed service receiving training after 1975 and before 1979 in programs described in subsection (a), with respect to amounts received after 1975 and before 1983."

SEC. 7. EXTENSION OF 5-YEAR AMORTIZATION FOR LOW-INCOME HOUSING.

26 USC 167.

(a) In General.—Subsection (k) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1978" each place it appears and inserting in lieu thereof "January 1, 1979".

26 USC 167 note.

(b) Technical Amendment.—Subsection (b) of section 203 of the Tax Reform Act of 1976 is amended by striking out ", and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978".

26 USC 382, 383.

SEC. 8. RULES FOR CARRYOVERS WHERE LOSS CORPORATIONS ARE ACQUIRED (SECTIONS 382 AND 383 OF THE INTERNAL REVENUE CODE OF 1954).

26 USC 382 note, 383 note.

Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980".

SEC. 201. SHORT TITLE, ETC.

Foreign Earned Income Act of 1978.

(a) Short Title.—This Act may be cited as the "Foreign Earned Income Act of 1978".

26 USC 1 note.

(b) Amendments of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

SEC. 202. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS.

26 USC 911.

(a) Section 911 Exclusion.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

Post, p. 3100.

"(a) General Rule.—In the case of an individual described in section 913(a) who, because of his employment, resides in a camp located in a hardship area, the following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) Bona fide resident of foreign country.—If such individual is described in section 913(a)(1), amounts received from sources within a foreign country or countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the period of bona fide residence. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—If such individual is described in section 913(a)(2), amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed as a deduction from his gross income or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses)". 26 USC 217.

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows: 26 USC 911.

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(B) CAMP.—For purposes of this section, an individual shall not be considered to reside in a camp because of his employment unless the camp constitutes substandard lodging which is—

"(i) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(ii) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(iii) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees.

"(C) HARDSHIP AREA.—For purposes of this section, the term 'hardship area' has the same meaning as in section 913(h).". *Post*, p. 3100.

(c) BUSINESS PREMISES OF THE EMPLOYER.—Subsection (c) of section 911 (relating to special rules) is amended by inserting after paragraph (6) the following new paragraph: 26 USC 911.

"(7) BUSINESS PREMISES OF THE EMPLOYER.—In the case of an individual residing in a camp who elects the exclusion provided in this section for a taxable year, the camp shall be considered to be part of the business premises of the employer for purposes of section 119 for such taxable year." 26 USC 119.

(d) SECTION NOT TO APPLY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) SECTION NOT TO APPLY.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply for the taxable year."

26 USC 911. (2) Conforming amendment.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(e) Removal of Requirement as to Place of Receipt.—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(f) Clerical Amendments.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS."

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned by individuals in certain camps."

26 USC 911. (3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

26 USC 901. (4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

26 USC 43, 1302, 1304, 1402, 6012, 6091. (5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned by employees in certain camps".

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

26 USC 911. (a) Allowance of Deduction.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

26 USC 913. "SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

"(a) Allowance of Deduction.—In the case of an individual who is—

"(1) Bona fide resident of foreign country.—A citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) Presence in foreign country for 17 months.—A citizen or resident of the United States and who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,

there shall be allowed as a deduction for such taxable year or for any taxable year which contains part of such period, the sum of the amounts set forth in subsection (b).

"(b) Amounts.—The amounts referred to in this subsection are:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(5) The qualified hardship area deduction.

"(c) Deduction Not To Exceed Net Foreign Source Earned Income.—

"(1) In general.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(ii) the allocable deductions. 26 USC 119.

"(2) ALLOCABLE DEDUCTIONS DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than the deduction allowed by this section.

"(d) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other methods) so prescribed shall be revised at least once during each calendar year.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) COMPUTATION ON DAILY BASIS.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) BASIS OF COMPARISON.—The differential prescribed for any foreign place—

"(i) shall vary depending on the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) shall reflect the costs of living of a family whose income is equal to the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS-14. 5 USC 5332 note.

"(D) STATE DEPARTMENT'S INDEX MAY BE TAKEN INTO ACCOUNT.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.—Except as provided in subsection (i)(1)(A)(ii) an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(e) QUALIFIED HOUSING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

26 USC 163, 164, 216.

"(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'base housing amount' means 20 percent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified school expenses,

"(IV) the qualified home leave travel expenses, and

"(V) the qualified hardship area deduction.

"(B) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—If, because of adverse living conditions, the individual maintains a household for his spouse and dependents at a foreign place other than his tax home which is in addition to the household he maintains as his tax home, and if his tax home is in a hardship area as defined in subsection (h), the base housing amount for the household maintained at his tax home shall be zero.

"(4) PERIODS TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (i)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

26 USC 119.

"(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (i)(1)(B)(iii)).

"(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (b) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(f) Qualified Schooling Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) Expenses included.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) Room, board, and travel allowed in certain cases.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) Determination of reasonable expenses.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) Period taken into account.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(g) Qualified Home Leave Travel Expenses.—

"(1) In general.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to—

"(A) the individual's present (or, if none, most recent) principal residence in the United States, or

"(B) if subparagraph (A) does not apply to the individual, the nearest port of entry in the continental United States (excluding Alaska)

and return.

"(2) One trip per 12-month period abroad.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(h) Qualified Hardship Area Deduction.—

"(1) In general.—For purposes of this section, the term 'qualified hardship area deduction' means an amount computed on a daily basis at an annual rate of $5,000 for days during which the individual's tax home is in a hardship area.

"(2) Hardship area defined.—For purposes of this section, the term 'hardship area' means any foreign place designated by the Secretary of State as a hardship post where extraordinarily difficult living conditions, notably unhealthful conditions, or excessive physical hardships exist and for which a post differential of 15 percent or more—

"(A) is provided under section 5925 of title 5, United States Code, or

"(B) would be so provided if officers and employees of the Government of the United States were present at that place.

"(i) Special Rules Where Individual Maintains Separate Household for Spouse and Dependents Because of Adverse Living Conditions at Tax Home.—

"(1) In general.—For any period during which an individual maintains a qualified second household—

"(A) Qualified cost-of-living differential.—

"(i) Allowance determined by reference to location of qualified second household.—Paragraph (1) of subsection (d) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

26 USC 119.

"(ii) Disregard of section 119 rule.—Subparagraph (E) of subsection (d)(2) shall not apply with respect to the spouse and dependents.

"(B) Qualified housing expenses.—

"(i) Expenses with respect to qualified second household taken into account.—For purposes of subsection (e), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (e)(2) if the individual resided at such household.

"(ii) Separate application of subsection (e).—Subsection (e) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (e)(3)(A)(ii).

"(iii) Certain rules not to apply.—Paragraphs (4)(A)(ii) and (5) of subsection (e) shall not apply with respect to housing expenses for the qualified second household.

"(C) Requirement that spouse and dependents reside with individual for purposes of schooling and home leave.—

"(i) In general.—The requirement of subsection (j)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (f), and paragraph (1) of subsection (g), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) DEFINITION OF QUALIFIED SECOND HOUSEHOLD.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(j) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof. 26 USC 911.

"(B) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States. 26 USC 162.

"(C) RESIDENCE AT TAX HOME.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) ADVERSE LIVING CONDITIONS.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) UNITED STATES.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States. 26 USC 638.

"(2) LIMITATION TO COACH OR ECONOMY FARE.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—Except as provided in subsection (i)(1)(C)(i), amounts may be taken into account under subsection (f) with respect to any dependent of the individual, and under subsection (g) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(k) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

26 USC 151.

"(2) as an exclusion, or

"(3) as a credit under section 44A (relating to household and dependent care services),

26 USC 44A.

any amount to the extent that such amount is taken into account under subsection (d), (e), (f), or (g).

26 USC 911.

"(l) APPLICATION WITH SECTION 911.—An individual shall not be allowed the deduction allowed by subsection (a) for any taxable year with respect to which he elects the exclusion provided in section 911.

"(m) REGULATIONS.— The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns.".

26 USC 62.

(b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913."

Ante, p. 3100.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

SEC. 204. MOVING EXPENSES.

26 USC 217.

(a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) SPECIAL RULES FOR FOREIGN MOVES.—

"(1) INCREASE IN LIMITATIONS.—In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) ALLOWANCE OF CERTAIN STORAGE FEES.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) Foreign move.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) United states defined.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) Allowance of Deductions in Case of Retirees or Decedents Who Were Working Abroad.—

"(1) In general.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply.

"(2) Qualified retiree moving expenses.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) Qualified survivor moving expenses.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense.".

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended— 26 USC 119.

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) Meals and Lodging Furnished to Employee, His Spouse, and His Dependents, Pursuant to Employment.—There shall".

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE. 26 USC 1034.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(j)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

26 USC 3401.

(a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

Ante, p. 3100.

26 USC 6091.

(b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

26 USC 912.
26 USC 6011.

(c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

Report to congressional committees.
26 USC 911 note.

(a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

26 USC 911, 912, 913.

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES.

(a) General Rule.—Except as provided in subsections (b) and (c) the amendments made by this title shall apply to taxable years beginning after December 31, 1977. 26 USC 911 note.

(b) Wage Withholding.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

(c) Election of Prior Law.—

(1) A taxpayer may elect not to have the amendments made by this title apply with respect to any taxable year beginning after December 31, 1977, and before January 1, 1979.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year beginning after December 31, 1977.

SEC. 210. APPLICATION OF TITLE I.

(a) In General.—Title I of this Act (other than sections 4 and 5 thereof) shall cease to have effect on the day after the date of the enactment of this Act. 26 USC 61 note.

(b) Special Rule for Section 5.—Section 5 of this Act shall not apply with respect to any type of plan for any period for which rules for that type of plan are provided by the Revenue Act of 1978. 26 USC 401 note. *Ante*, p. 2763.

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-697 (Comm. on Ways and Means) and No. 95-1798 (Comm. of Conference).
SENATE REPORT No. 95-746 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 25, considered and passed House.
Vol. 124 (1978): May 11, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendment No. 3 with amendments, disagreed to other Senate amendments.
Sept. 28, Senate disagreed to House amendment.
Oct. 15, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

Public Law 95-616
95th Congress

An Act

Nov. 8, 1978
[H.R. 2329]

To improve the administration of fish and wildlife programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Improvement Act of 1978".

Fish and Wildlife Improvement Act of 1978.
16 USC 742a note.

SEC. 2. FISH AND WILDLIFE COOPERATIVE UNITS ASSISTANCE.

The first section of the Act of September 2, 1960 (74 Stat. 733; 16 U.S.C. 753a) is amended—

(1) by striking out "technical personnel" and inserting in lieu thereof "scientific personnel"; and

(2) by inserting immediately after "respective units," the following: "to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection".

16 USC 742*l*.

SEC. 3. ENFORCEMENT AUTHORITY FOR THE PROTECTION OF FISH AND WILDLIFE RESOURCES.

(a) LAW ENFORCEMENT TRAINING PROGRAM.—(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1980 such funds as may be necessary to carry out the purposes of subsection (b), and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b)(1) (A) and (C).

(b) LAW ENFORCEMENT COOPERATIVE AGREEMENT.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5, United States Code; 5 USC 8191.

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28, United States Code;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18, United States Code.

(c) Disposal of Abandoned or Forfeited Property.—Notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(d) Disclaimer.—Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to the date of enactment of this Act.

(e) Refuge Recreation Act.—Section 4 of the Act of September 28, 1962 (76 Stat. 654, 16 U.S.C. 460k-3), is amended by adding at the end thereof the following new sentence: "The provisions of this Act and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(f) National Wildlife Refuge System Administration Act.—The final sentence of section (4)(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended to read as follows: "Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law.".

(g) Bear River Migratory Bird Refuge.—Section 6(b) of the Act of April 23, 1928 (45 Stat. 449; 16 U.S.C. 690e) is amended by striking at the end thereof the term "and disposed of as directed by the court having jurisdiction." and inserting in lieu thereof the term "and disposed of as directed by the Secretary of the Interior, in accordance with law.".

(h) Migratory Bird Treaty Act.—(1) The final sentence of section 5 of the Migratory Bird Treaty Act (16 U.S.C. 706) is amended to read as follows: "All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.".

Regulations.
16 USC 712.

(2) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

Regulations.

(3) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

(i) MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.—The final sentence of section 6 of the Act of March 16, 1934 (48 Stat. 452, 16 U.S.C. 718f) is amended to read as follows: "Any bird or part thereof taken or possessed contrary to this Act shall, when seized, be disposed of by the Secretary in accordance with law.".

(j) TITLE 18.—(1) Section 3112 of title 18, United States Code, is amended by striking out "court" and inserting in lieu thereof "Secretary".

(2) Section 1114 of such title 18 is amended by inserting immediately before "or of the Department of Labor" the following: ", the Department of Commerce,".

SEC. 4. FISH AND WILDLIFE ACT OF 1956.

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) is amended—

(1) by striking out paragraphs (4) and (5), and inserting in lieu thereof the following:

"(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.";

(2) by inserting "and" immediately after the semicolon at the end of paragraph (3); and

(3) by adding at the end thereof the following two new subsections:

"(b)(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

"(2) Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

"(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

"(c)(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, United States Code, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

"(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence of such volunteers.

"(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

"(4) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this subsection shall be considered a Federal employee.

"(5) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term 'employees' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply. 5 USC 8101.

"(6) There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1980, 1981, and 1982.". Appropriation authorization.

SEC. 5. MIGRATORY BIRD CONSERVATION ACT.

(a) Section 5 of the Migratory Bird Conservation Act (16 U.S.C. 715d) is amended to read as follows:

"SEC. 5. The Secretary of the Interior may—

"(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

"(2) acquire, by gift or devise, any area or interests therein; which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this Act (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this Act.".

(b) Section 10(a) of such Act (16 U.S.C. 715i(a)) is amended by striking out "Mexico and Canada" and inserting in lieu thereof "Mexico, Canada, Japan, and the Union of Soviet Socialist Republics".

(c) Section 11 of such Act (16 U.S.C. 715j) is amended by inserting "and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.)" after "this Act", by striking out "and" after "(39 Stat. 1702)" and inserting in lieu thereof a comma, and by inserting immediately before the period at the end thereof a comma and the following: "the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976".

SEC. 6. NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)(1)(A)) is amended by striking out "; and" at the end thereof and inserting in lieu thereof "unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species; and".

SEC. 7. MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.

(a) Section 2 of the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718b) is amended by striking out "September" in the sixth sentence thereof and inserting in lieu thereof "June".

16 USC 718c.

(b) Section 3 of such Act is amended by inserting immediately after "treaty" the following: "or convention".

SEC. 8. CRAB ORCHARD NATIONAL WILDLIFE REFUGE.

The second sentence of section 2 of the Act of August 5, 1947 (61 Stat. 770; 16 U.S.C. 666g), is amended to read as follows: "Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s).".

SEC. 9. BALD EAGLE PROTECTION ACT.

Section 2 of the Act of June 8, 1904 (16 U.S.C. 668a) is amended by deleting the period at the end thereof and adding the following: "*Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden eagle nests which interfere with resource development or recovery operations.".

SEC. 10. WATERFOWL HABITAT CONSERVATION IN THE SAN JOAQUIN VALLEY.

(a) The Act of August 27, 1954 (68 Stat. 879) is amended by deleting the last sentence of section 6 and inserting in lieu thereof the following: "If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis— 16 USC 695i.

"(a) the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the 'Service'), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

"(b) the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in section 6(a) of this Act to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

"(c) any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to this Act shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by this Act, the rights of use of any facilities referred to in subsection (b), and the rights to all water contracted for by the organization or agency pursuant to this Act shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

"(d) in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.".

(b) The Act of August 27, 1954 (68 Stat. 879), is further amended by adding at the end thereof the following new section:

16 USC 695j-1.

"SEC. 8. The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of this Act.".

Approved November 8, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-29 (Comm. on Merchant Marine and Fisheries) and No. 95-1730 (Comm. of Conference).

SENATE REPORTS: No. 95-1175 (Comm. on Environment and Public Works) and No. 95-1277 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Feb. 28, considered and failed of passage in House.

Vol. 124 (1978): Jan. 19, considered and passed House.

Sept. 25, considered and passed Senate, amended.

Sept. 26, passage vitiated; reconsidered and passed Senate, amended.

Oct. 15, House agreed to conference report; receded from disagreement and concurred in Senate amendment No. 32 with amendments; Senate agreed to conference report, and concurred in House amendments to Senate amendment No. 32; receded from Senate amendment No. 33.

Public Law 95-617
95th Congress

An Act

To suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics.

Nov. 9, 1978
[H.R. 4018]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Public Utility Regulatory Policies Act of 1978".

Public Utility Regulatory Policies Act of 1978.
16 USC 2601 note.

(b) Table of Contents.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Relationship to antitrust laws.

TITLE I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

Subtitle A—General Provisions

Sec. 101. Purposes.
Sec. 102. Coverage.
Sec. 103. Federal contracts.

Subtitle B—Standards for Electric Utilities

Sec. 111. Consideration and determination respecting certain ratemaking standards.
Sec. 112. Obligations to consider and determine.
Sec. 113. Adoption of certain standards.
Sec. 114. Lifeline rates.
Sec. 115. Special rules for standards.
Sec. 116. Reports respecting standards.
Sec. 117. Relationship to State law.

Subtitle C—Intervention and Judicial Review

Sec. 121. Intervention in proceedings.
Sec. 122. Consumer representation.
Sec. 123. Judicial review and enforcement.
Sec. 124. Prior and pending proceedings.

Subtitle D—Administrative Provisions

Sec. 131. Voluntary guidelines.
Sec. 132. Responsibilities of Secretary of Energy.
Sec. 133. Gathering information on costs of service.
Sec. 134. Relationship to other authority.

Subtitle E—State Utility Regulatory Assistance

Sec. 141. Grants to carry out titles I and III.
Sec. 142. Authorizations.
Sec. 143. Conforming amendments.

TITLE II—CERTAIN FEDERAL ENERGY REGULATORY COMMISSION AND DEPARTMENT OF ENERGY AUTHORITIES

Sec. 201. Definitions.
Sec. 202. Interconnection.
Sec. 203. Wheeling.
Sec. 204. General provisions regarding certain interconnection and wheeling authority.
Sec. 205. Pooling.
Sec. 206. Continuance of service.
Sec. 207. Consideration of proposed rate increases.
Sec. 208. Automatic adjustment clauses.
Sec. 209. Reliability.
Sec. 210. Cogeneration and small power production.
Sec. 211. Interlocking directorates.
Sec. 212. Public participation before Federal Energy Regulatory Commission.
Sec. 213. Conduit hydroelectric facilities.
Sec. 214. Prior action; effect on other authorities.

TITLE III—RETAIL POLICIES FOR NATURAL GAS UTILITIES

Sec. 301. Purposes; coverage.
Sec. 302. Definitions.
Sec. 303. Adoption of certain standards.
Sec. 304. Special rules for standards.
Sec. 305. Federal participation.
Sec. 306. Gas utility rate design proposals.
Sec. 307. Judicial review and enforcement.
Sec. 308. Relationship to other applicable law.
Sec. 309. Reports respecting standards.
Sec. 310. Prior and pending proceedings.
Sec. 311. Relationship to other authority.

TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

Sec. 401. Establishment of program.
Sec. 402. Loans for feasibility studies.
Sec. 403. Loans for project costs.
Sec. 404. Loan rates and repayment.
Sec. 405. Simplified and expeditious licensing procedures.
Sec. 406. New impoundments.
Sec. 407. Authorizations.
Sec. 408. Definitions.

TITLE V—CRUDE OIL TRANSPORTATION SYSTEMS

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SEC. 2. FINDINGS.

16 USC 2601.

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,

(2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,

(3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,

(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,

(5) a program to encourage the development of crude oil transportation systems, and

(6) the establishment of certain other authorities as provided in title VI of this Act.

SEC. 3. DEFINITIONS.

16 USC 2602.

As used in this Act, except as otherwise specifically provided—

(1) The term "antitrust laws" includes the Sherman Antitrust Act (15 U.S.C. 1 and following), the Clayton Act (15 U.S.C. 12 and following), the Federal Trade Commission Act (15 U.S.C. 14 and following), the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(2) The term "class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(6) The term "evidentiary hearing" means—

(A) in the case of a State agency, a proceeding which (i) is open to the public, (ii) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (iii) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (iv) is subject to judicial review;

(B) in the case of a Federal agency, a proceeding conducted as provided in sections 554, 556, and 557 of title 5, United States Code; and

(C) in the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of subparagraph (A).

(7) The term "Federal agency" means an executive agency (as defined in section 105 of title 5 of the United States Code).

(8) The term "load management technique" means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

(9) The term "nonregulated electric utility" means any electric utility other than a State regulated electric utility.

(10) The term "rate" means (A) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(11) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(12) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(13) The term "sale" when used with respect to electric energy includes any exchange of electric energy.

(14) The term "Secretary" means the Secretary of Energy.

(15) The term "State" means a State, the District of Columbia, and Puerto Rico.

(16) The term "State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

(17) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(18) The term "State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

16 USC 2603.

SEC. 4. RELATIONSHIP TO ANTITRUST LAWS.

Nothing in this Act or in any amendment made by this Act affects—

(1) the applicability of the antitrust laws to any electric utility or gas utility (as defined in section 302), or

Post, p. 3150.

(2) any authority of the Secretary or of the Commission under any other provision of law (including the Federal Power Act and the Natural Gas Act) respecting unfair methods of competition or anticompetitive acts or practices.

16 USC 791a, 15 USC 717w.

TITLE I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

Subtitle A—General Provisions

16 USC 2611.

SEC. 101. PURPOSES.

The purposes of this title are to encourage—

(1) conservation of energy supplied by electric utilities;

(2) the optimization of the efficiency of use of facilities and resources by electric utilities; and

(3) equitable rates to electric consumers.

SEC. 102. COVERAGE.

16 USC 2612.

(a) Volume of Total Retail Sales.—This title applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(b) Exclusion of Wholesale Sales.—The requirements of this title do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of electric energy for purposes of resale.

(c) List of Covered Utilities.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each electric utility to which this title applies during such calendar year. Promptly after publication of such list each State regulatory authority shall notify the Secretary of each electric utility on the list for which such State regulatory authority has ratemaking authority.

SEC. 103. FEDERAL CONTRACTS.

16 USC 2613.

Notwithstanding the limitation contained in section 102(b), no contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into or renewed after the date of the enactment of this Act may contain any provision which will have the effect of preventing the implementation of any requirement of subtitle B or C. Any provision in any such contract which has such effect shall be null and void.

Subtitle B—Standards For Electric Utilities

SEC. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

16 USC 2621.

(a) Consideration and Determination.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) Procedural Requirements for Consideration and Determination.—(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be—

Notice and hearing.

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in subsection (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.—(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

Federal standards.

(d) ESTABLISHMENT.—The following Federal standards are hereby established:

(1) COST OF SERVICE.—Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a).

(2) DECLINING BLOCK RATES.—The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) TIME-OF-DAY RATES.—The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b).

(4) SEASONAL RATES.—The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) INTERRUPTIBLE RATES.—Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) LOAD MANAGEMENT TECHNIQUES.—Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

16 USC 2622.

SEC. 112. OBLIGATIONS TO CONSIDER AND DETERMINE.

(a) REQUEST FOR CONSIDERATION AND DETERMINATION.—Each State regulatory authority (with respect to each electric utility for which

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it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 111 with respect to any standard established by section 111(d) in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 121) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 111(d), a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after the date of the enactment of this Act, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 124, with the requirements of this title; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) Time Limitations.—(1) Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by section 111(d).

(2) Not later than three years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by section 111(d).

(c) Failure To Comply.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 111 with respect to each standard established by section 111(d) in the first rate proceeding commenced after the date three years after the date of enactment of this Act respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) with respect to such standard.

SEC. 113. ADOPTION OF CERTAIN STANDARDS.

16 USC 2623.

(a) Adoption of Standards.—Not later than two years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

Federal standards.

(b) Establishment.—The following Federal standards are hereby established:

(1) Master metering.—To the extent determined appropriate under section 115(d), master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this title.

(2) Automatic adjustment clauses.—No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e).

(3) Information to consumers.—Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f).

(4) Procedures for termination of electric service.—No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 115(g).

(5) Advertising.—No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h).

(c) Procedural Requirements.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a), shall (1) adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

16 USC 2624.

SEC. 114. LIFELINE RATES.

(a) Lower Rates.—No provision of this title prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 111(d)(1).

(b) Determination.—If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) in effect two years after the date of the enactment of this Act, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) Prior Proceedings.—Section 124 shall not apply to the requirements of this section.

SEC. 115. SPECIAL RULES FOR STANDARDS.

16 USC 2625.

(a) Cost of Service.—In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-Day Rates.—In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

(c) Load Management Techniques.—In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master Metering.—Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) AUTOMATIC ADJUSTMENT CLAUSES.—(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

Definition.

(3) As used in this subsection and section 113(b), the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) INFORMATION TO CONSUMERS.—(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) PROCEDURES FOR TERMINATION OF ELECTRIC SERVICE.—The procedures for termination of service referred to in section 113(b)(4) are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) ADVERTISING.—(1) For purposes of this section and section 113(b)(5)— **Definitions.**

(A) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 113(b)(5), the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act, *Post*, p. 3209.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

16 USC 2626.

SEC. 116. REPORTS RESPECTING STANDARDS.

(a) State Authorities and Nonregulated Utilities.—Not later than one year after the date of the enactment of this Act and annually thereafter for ten years, each State regulatory authority (with respect to each State regulated electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by sections 111(d) and 113(b). Such report shall include a summary of the determinations made and actions taken with respect to each such standard on a utility-by-utility basis.

(b) Secretary.—Not later than eighteen months after the date of the enactment of this Act and annually thereafter for ten years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a),

(2) his analysis of such reports, and

(3) his actions under this title, and his recommendations for such further Federal actions, including any legislation, regarding retail electric utility rates (and other practices) as may be necessary to carry out the purposes of this title.

16 USC 2627.

SEC. 117. RELATIONSHIP TO STATE LAW.

(a) Revenue and Rate of Return.—Nothing in this title shall authorize or require the recovery by an electric utility of revenues, or of a rate of return, in excess of, or less than, the amount of revenues or the rate of return determined to be lawful under any other provision of law.

(b) State Authority.—Nothing in this title prohibits any State regulatory authority or nonregulated electric utility from adopting, pursuant to State law, any standard or rule affecting electric utilities which is different from any standard established by this subtitle.

(c) Federal Agencies.—With respect to any electric utility which is a Federal agency, and with respect to the Tennessee Valley Authority when it is treated as a State regulatory authority as provided in section 3(17), any reference in section 111 or 113 to State law shall be treated as a reference to Federal law.

Subtitle C—Intervention and Judicial Review

16 USC 2631.

SEC. 121. INTERVENTION IN PROCEEDINGS.

(a) Authority To Intervene and Participate.—In order to initiate and participate in the consideration of one or more of the standards established by subtitle B or other concepts which contribute to the achievement of the purposes of this title, the Secretary, any affected electric utility, or any electric consumer of an affected electric utility may intervene and participate as a matter of right in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design which is conducted by a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by a nonregulated electric utility.

(b) Access to Information.—Any intervenor or participant in a proceeding described in subsection (a) shall have access to information available to other parties to the proceeding if such information is relevant to the issues to which his intervention or participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State regulatory authority (in the case of proceedings concerning electric utilities for which it has ratemaking authority) or by the nonregulated electric utility (in the case of a proceeding conducted by a nonregulated electric utility).

(c) Effective Date; Procedures.—Any intervention or participation under this section, in any proceeding commenced before the date of the enactment of this Act but not completed before such date, shall be permitted under this section only to the extent such intervention or participation is timely under otherwise applicable law.

SEC. 122. CONSUMER REPRESENTATION.

16 USC 2632.

(a) Compensation for Costs of Participation or Intervention.—(1) If no alternative means for assuring representation of electric consumers is adopted in accordance with subsection (b) and if an electric consumer of an electric utility substantially contributed to the approval, in whole or in part, of a position advocated by such consumer in a proceeding concerning such utility, and relating to any standard set forth in subtitle B, such utility shall be liable to compensate such consumer (pursuant to paragraph (2)) for reasonable attorneys' fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of such position in such proceeding (including fees and costs of obtaining judicial review of any determination made in such proceeding with respect to such position).

(2) A consumer entitled to fees and costs under paragraph (1) may collect such fees and costs from an electric utility by bringing a civil action in any State court of competent jurisdiction, unless the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility) or nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has adopted a reasonable procedure pursuant to which such authority or nonregulated electric utility—

(A) determines the amount of such fees and costs, and

(B) includes an award of such fees and costs in its order in the proceeding.

(3) The procedure adopted by such State regulatory authority or nonregulated utility under paragraph (2) may include a preliminary proceeding to require that—

(A) as a condition of receiving compensation under such procedure such consumer demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship for such consumer, and

(B) persons with the same or similar interests have a common legal representative in the proceeding as a condition to receiving compensation.

(b) Alternative Means.—Compensation shall not be required under subsection (a) if the State, the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility), or the nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has provided an alternative means for providing adequate compensation to persons—

(1) who have, or represent, an interest—

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(2) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) TRANSCRIPTS.—The State regulatory authority or nonregulated electric utility, as the case may be, shall make transcripts of the proceeding available, at cost of reproduction, to parties or intervenors in any ratemaking proceeding, or other regulatory proceeding relating to rates or rate design, before a State regulatory authority or nonregulated electric utility.

(d) FEDERAL AGENCIES.—Any claim under this section against any Federal agency shall be subject to the availability of appropriated funds.

(e) RIGHTS UNDER OTHER AUTHORITY.—Nothing in this section affects or restricts any rights of any participant or intervenor in any proceeding under any other applicable law or rule of law.

16 USC 2633.

SEC. 123. JUDICIAL REVIEW AND ENFORCEMENT.

(a) LIMITATION OF FEDERAL JURISDICTION.—Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of subtitle A or B or of this subtitle except for—

(1) an action over which a court of the United States has jurisdiction under subsection (b) or (c) (2); and

(2) review of any action in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28 of the United States Code.

(b) ENFORCEMENT OF INTERVENTION RIGHT.—(1) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene and participate under section 121(a), and such court shall have jurisdiction to grant appropriate relief.

(2) If any electric utility or electric consumer having a right to intervene under section 121(a) is denied such right by any State court, such electric utility or electric consumer may bring an action in the appropriate United States district court to require the State regulatory authority or nonregulated electric utility to permit such intervention and participation, and such court shall have jurisdiction to grant appropriate relief.

(3) Nothing in this subsection prohibits any person bringing any action under this subsection in a court of the United States from seeking review and enforcement at any time in any State court of any rights he may have with respect to any motion to intervene or participate in any proceeding.

(c) REVIEW AND ENFORCEMENT.—(1) Any person (including the Secretary) may obtain review of any determination made under subtitle A or B or under this subtitle with respect to any electric utility (other than a utility which is a Federal agency) in the appropriate State court if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if State law otherwise permits such review. Any person (including the Secretary) may bring an action to enforce the requirements of this title in the appropriate State court, except that no such action may be brought in a State court with respect to a utility which is a Federal agency. Such review or action in a State court shall be pursuant to any applicable State procedures.

(2) Any person (including the Secretary) may obtain review in the appropriate court of the United States of any determination made under subtitle A or B or this subtitle by a Federal agency if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if otherwise applicable law permits such review. Such court shall have jurisdiction to grant appropriate relief. Any person (including the Secretary) may bring an action to enforce the requirements of subtitle A or B or this subtitle with respect to any Federal agency in the appropriate court of the United States and such court shall have jurisdiction to grant appropriate relief.

(3) In addition to his authority to obtain review under paragraph (1) or (2), the Secretary may also participate as an amicus curiae in any review by any court of an action arising under the provisions of subtitle A or B or this subtitle.

(d) Other Authority of the Secretary.—Nothing in this section prohibits the Secretary from—

(1) intervening and participating in any proceeding, or

(2) intervening and participating in any review by any court of any action

under section 204 of the Energy Conservation and Production Act. 42 USC 6804.

SEC. 124. PRIOR AND PENDING PROCEEDINGS.

16 USC 2634.

For purposes of subtitles A and B, and this subtitle, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before the date of the enactment of this Act and actions taken before such date in such proceedings shall be treated as complying with the requirements of subtitles A and B, and this subtitle if such proceedings and actions substantially conform to such requirements. For purposes of subtitles A and B, and this subtitle, any such proceeding or action commenced before the date of enactment of this Act, but not completed before such date, shall comply with the requirements of subtitles A and B, and this subtitle, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 121(c).

Subtitle D—Administrative Provisions

SEC. 131. VOLUNTARY GUIDELINES.

16 USC 2641.

The Secretary may prescribe voluntary guidelines respecting the standards established by sections 111(d) and 113(b). Such guidelines may not expand the scope or legal effect of such standards or establish additional standards respecting electric utility rates.

SEC. 132. RESPONSIBILITIES OF SECRETARY OF ENERGY.

16 USC 2642.
Notification.

(a) Authority.—The Secretary may periodically notify the State regulatory authorities, and electric utilities identified pursuant to section 102(c), of—

(1) load management techniques and the results of studies and experiments concerning load management techniques;

(2) developments and innovations in electric utility ratemaking throughout the United States, including the results of studies and experiments in rate structure and rate reform;

(3) methods for determining cost of service; and

(4) any other data or information which the Secretary determines would assist such authorities and utilities in carrying out the provisions of this title.

(b) TECHNICAL ASSISTANCE.—The Secretary may provide such technical assistance as he determines appropriate to assist the State regulatory authorities in carrying out their responsibilities under subtitle B and as is requested by any State regulatory authority relating to the standards established by subtitle B.

(c) APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of subsection (b) not to exceed $1,000,000 for each of the fiscal years 1979 and 1980.

16 USC 2643.

SEC. 133. GATHERING INFORMATION ON COSTS OF SERVICE.

(a) INFORMATION REQUIRED TO BE GATHERED.—Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 111(d)(2), such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) the costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) annual capital, operating, and maintenance costs—

(A) for transmission and distribution services, and

(B) for each type of generating unit; and

(4) costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) COMMISSION RULES.—The Commission shall, within 180 days after the date of enactment of this Act, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

Review.

(c) FILING AND PUBLICATION.—Not later than two years after the date of enactment of this Act, and periodically, but not less frequently than every two years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after the date of the enactment specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) ENFORCEMENT.—For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 enforceable under section 12 of such Act (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission. 15 USC 797.

SEC. 134. RELATIONSHIP TO OTHER AUTHORITY.

Nothing in this title shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law. 16 USC 2644.

Subtitle E—State Utility Regulatory Assistance

SEC. 141. GRANTS TO CARRY OUT TITLES I AND III.

Section 207 of title II of the Energy Conservation and Production Act is amended to read as follows: 42 USC 6807.

"STATE UTILITY REGULATORY ASSISTANCE

"SEC. 207. (a) The Secretary may make grants to State utility regulatory commissions and nonregulated electric utilities (as defined in the Public Utility Regulatory Policies Act of 1978) to carry out duties and responsibilities under titles I and III, and section 210, of the Public Utility Regulatory Policies Act of 1978. No grant may be made under this section to any Federal agency.

Grants.

Ante, p. 3117.

Ante, p. 3120, *post*, pp.3149, 3144.

"(b) Any requirements established by the Secretary with respect to grants under this section may be only such requirements as are necessary to assure that such grants are expended solely to carry out duties and responsibilities referred to in subsection (a) or such as are otherwise required by law.

"(c) No grant may be made under this section unless an application for such grant is submitted to the Secretary in such form and manner as the Secretary may require. The Secretary may not approve an application of a State utility regulatory commission or nonregulated electric utility unless such commission or nonregulated electric utility assures the Secretary that funds made available under this section will be in addition to, and not in substitution for, funds made available to such commission or nonregulated electric utility from other governmental sources.

"(d) The funds appropriated for purposes of this section shall be apportioned among the States in such manner that grants made under this section in each State shall not exceed the lesser of—

"(1) the amount determined by dividing equally among all States the total amount available under this section for such grants, or

"(2) the amount which the Secretary is authorized to provide pursuant to subsections (b) and (c) of this section for such State.".

SEC. 142. AUTHORIZATIONS.

Title II of the Energy Conservation and Production Act is amended by adding the following at the end thereof:

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6808. "SEC. 208. There are authorized to be appropriated—

"(1) not to exceed $40,000,000 for each of the fiscal years 1979 and 1980 to carry out section 207 (relating to State utility regulatory assistance);

"(2) not to exceed $10,000,000 for each of the fiscal years 1979 and 1980 to carry out section 205 (relating to State offices of consumer services); and

"(3) not to exceed $8,000,000 for the fiscal year 1979, and $10,000,000 for the fiscal year 1980 to carry out section 204(1)(B) (relating to innovative rate structures).".

SEC. 143. CONFORMING AMENDMENTS.

42 USC 6801 *et seq.* (a) ADMINISTRATOR.—Title II of the Energy Conservation and Production Act is amended by striking out "Administrator" in each place it appears and substituting "Secretary". Section 202(1) of the 42 USC 6802. Energy Conservation and Production Act is amended to read as follows:

"(b) DEFINITION.—

"(1) The term 'Secretary' means the Secretary of Energy.".

TITLE II—CERTAIN FEDERAL ENERGY REGULATORY COMMISSION AND DEPARTMENT OF ENERGY AUTHORITIES

SEC. 201. DEFINITIONS.

16 USC 796. Section 3 of the Federal Power Act is amended by inserting the following before the period at the end thereof:

"(17)(A) 'small power production facility' means a facility which—

"(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof; and

"(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;

"(B) 'primary energy source' means the fuel or fuels used for the generation of electric energy, except that such term does not include, as determined under rules prescribed by the Commission, in consultation with the Secretary of Energy—

"(i) the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and

"(ii) the minimum amounts of fuel required to alleviate or prevent—

"(I) unanticipated equipment outages, and

"(II) emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages;

"(C) 'qualifying small power production facility' means a small power production facility—

"(i) which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe; and

"(ii) which is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

"(D) 'qualifying small power producer' means the owner or operator of a qualifying small power production facility;

"(18)(A) 'cogeneration facility' means a facility which produces—

"(i) electric energy, and

"(ii) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes;

"(B) 'qualifying cogeneration facility' means a cogeneration facility which—

"(i) the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe; and

"(ii) is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

"(C) 'qualifying cogenerator' means the owner or operator of a qualifying cogeneration facility;

"(19) 'Federal power marketing agency' means any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy;

"(20) 'evidentiary hearings' and 'evidentiary proceeding' mean a proceeding conducted as provided in sections 554, 556, and 557 of title 5, United States Code;

"(21) 'State regulatory authority' has the same meaning as the term 'State commission', except that in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority (as defined in section 3 of the Public Utility Regulatory Policies Act of 1978), such term means the Tennessee Valley Authority;

"(22) 'electric utility' means any person or State agency which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency".

SEC. 202. INTERCONNECTION.

Part II of the Federal Power Act is amended by adding the following new section at the end thereof:

"CERTAIN INTERCONNECTION AUTHORITY

"SEC. 210. (a)(1) Upon application of any electric utility, Federal power marketing agency, qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring— 16 USC 824i.

"(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

"(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability, "(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

"(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

"(2) Any State regulatory authority may apply to the Commission for an order for any action referred to in subparagraph (A), (B), (C), or (D) of paragraph (1). No such order may be issued by the Commission with respect to a Federal power marketing agency upon application of a State regulatory authority.

"(b) Upon receipt of an application under subsection (a), the Commission shall—

"(1) issue notice to each affected State regulatory authority, each affected electric utility, each affected Federal power marketing agency, each affected owner or operator of a cogeneration facility or of a small power production facility, and to the public.

"(2) afford an opportunity for an evidentiary hearing, and

"(3) make a determination with respect to the matters referred to in subsection (c).

"(c) No order may be issued by the Commission under subsection (a) unless the Commission determines that such order—

"(1) is in the public interest,

"(2) would—

"(A) encourage overall conservation of energy or capital,

"(B) optimize the efficiency of use of facilities and resources, or

"(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

"(3) meets the requirements of section 212.

Post, p. 3138.

"(d) The Commission may, on its own motion, after compliance with the requirements of paragraphs (1) and (2) of subsection (b), issue an order requiring any action described in subsection (a)(1) if the Commission determines that such order meets the requirements of subsection (c). No such order may be issued upon the Commission's own motion with respect to a Federal power marketing agency.

Definitions.

"(e)(1) As used in this section, the term 'facilities' means only facilities used for the generation or transmission of electric energy.

"(2) With respect to an order issued pursuant to an application of a qualifying cogenerator or qualifying small power producer under subsection (a)(1), the term 'facilities of such applicant' means the qualifying cogeneration facilities or qualifying small power production facilities of the applicant, as specified in the application. With respect to an order issued pursuant to an application under subsection (a)(2), the term 'facilities of such applicant' means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the application. With respect to an order issued by the Commission on its own motion under subsection (d), such term means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the proposed order.".

SEC. 203. WHEELING.

Part II of the Federal Power Act, as amended by section 202 of this Act, is further amended by adding the following new section at the end thereof:

"CERTAIN WHEELING AUTHORITY

"SEC. 211. (a) Any electric utility or Federal power marketing agency may apply to the Commission for an order under this subsection requiring any other electric utility to provide transmission services to the applicant (including any enlargement of transmission capacity necessary to provide such services). Upon receipt of such application, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such order if it finds that such order— 16 USC 824j.

"(1) is in the public interest,

"(2) would—

"(A) conserve a significant amount of energy,

"(B) significantly promote the efficient use of facilities and resources, or

"(C) improve the reliability of any electric utility system to which the order applies, and

"(3) meets the requirements of section 212. *Post*, p. 3138.

"(b) Any electric utility, or Federal power marketing agency, which purchases electric energy for resale from any other electric utility may apply to the Commission for an order under this subsection requiring such other electric utility to provide transmission services to the applicant (including any increase in transmission capacity necessary to provide such services). Upon receipt of an application under this subsection, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such an order if the Commission determines that—

"(1) such other electric utility has given actual or constructive notice that it is unwilling or unable to provide electric service to the applicant and has been requested by the applicant to provide the transmission services requested in the application under this subsection, and

"(2) such order meets the requirements of section 212.

"(c)(1) No order may be issued under subsection (a) unless the Commission determines that such order would reasonably preserve existing competitive relationships.

"(2) No order may be issued under subsection (a) or (b) which requires the electric utility subject to the order to transmit, during any period, an amount of electric energy which replaces any amount of electric energy—

"(A) required to be provided to such applicant pursuant to a contract during such period, or

"(B) currently provided to the applicant by the utility subject to the order pursuant to a rate schedule on file during such period with the Commission.

"(3) No order may be issued under the authority of subsection (a) or (b) which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

"(4) No order may be issued under subsection (a) or (b) which provides for the transmission of electric energy directly to an ultimate consumer.

"(d)(1) Any electric utility ordered under subsection (a) or (b) to provide transmission services may apply to the Commission for an order permitting such electric utility to cease providing all, or any portion of, such services. After public notice, notice to each affected State regulatory authority, each affected Federal power marketing agency, and each affected electric utility, and after an opportunity for an evidentiary hearing, the Commission shall issue an order terminating or modifying the order issued under subsection (a) or (b), if the electric utility providing such transmission services has demonstrated, and the Commission has found, that—

"(A) due to changed circumstances, the requirements applicable, under this section and section 212, to the issuance of an order under subsection (a) or (b) are no longer met, or

Infra.

"(B) any transmission capacity of the utility providing transmission services under such order which was, at the time such order was issued, in excess of the capacity necessary to serve its own customers is no longer in excess of the capacity necessary for such purposes.

No order shall be issued under this subsection pursuant to a finding under subparagraph (A) unless the Commission finds that such order is in the public interest.

"(2) Any order issued under this subsection terminating or modifying an order issued under subsection (a) or (b) shall—

"(A) provide for any appropriate compensation, and

"(B) provide the affected electric utilities adequate opportunity and time to—

"(i) make suitable alternative arrangements for any transmission services terminated or modified, and

"(ii) insure that the interests of ratepayers of such utilities are adequately protected.

"(3) No order may be issued under this subsection terminating or modifying any order issued under subsection (a) or (b) if the order under subsection (a) or (b) includes terms and conditions agreed upon by the parties which—

"(A) fix a period during which transmission services are to be provided under the order under subsection (a) or (b), or

"(B) otherwise provide procedures or methods for terminating or modifying such order (including, if appropriate, the return of the transmission capacity when necessary to take into account an increase, after the issuance of such order, in the needs of the electric utility subject to such order for transmission capacity).

"(e) As used in this section, the term 'facilities' means only facilities used for the generation or transmission of electric energy.".

SEC. 204. GENERAL PROVISIONS REGARDING CERTAIN INTERCONNECTION AND WHEELING AUTHORITY.

(a) RESTRICTIONS AND OTHER PROVISIONS.—Part II of the Federal Power Act, as amended by sections 202 and 203 of this Act, is further amended by adding the following new section at the end thereof:

16 USC 824.

"PROVISIONS REGARDING CERTAIN ORDERS REQUIRING INTERCONNECTION OR WHEELING

16 USC 824k.
Ante, pp. 3135, 3137.

"SEC. 212. (a) No order may be issued by the Commission under section 210 or subsection (a) or (b) of section 211 unless the Commission determines that such order—

"(1) is not likely to result in a reasonably ascertainable uncompensated economic loss for any electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

"(2) will not place an undue burden on an electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

"(3) will not unreasonably impair the reliability of any electric utility affected by the order; and

"(4) will not impair the ability of any electric utility affected by the order to render adequate service to its customers.

The determination under paragraph (1) shall be based upon a showing of the parties. The Commission shall have no authority under section 210 or 211 to compel the enlargement of generating facilities.

Ante, pp. 3135, 3137.

"(b) No order may be issued under section 210 or subsection (a) or (b) of section 211 unless the applicant for such order demonstrates that he is ready, willing, and able to reimburse the party subject to such order for—

"(1) in the case of an order under section 210, such party's share of the reasonably anticipated costs incurred under such order, and

"(2) in the case of an order under subsection (a) or (b) of section 211—

"(A) the reasonable costs of transmission services, including the costs of any enlargement of transmission facilities, and

"(B) a reasonable rate of return on such costs, as appropriate, as determined by the Commission.

"(c)(1) Before issuing an order under section 210 or subsection (a) or (b) of section 211, the Commission shall issue a proposed order and set a reasonable time for parties to the proposed interconnection or transmission order to agree to terms and conditions under which such order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them. Such proposed order shall not be reviewable or enforceable in any court. The time set for such parties to agree to such terms and conditions may be shortened if the Commission determines that delay would jeopardize the attainment of the purposes of any proposed order. Any terms and conditions agreed to by the parties shall be subject to the approval of the Commission.

"(2)(A) If the parties agree as provided in paragraph (1) within the time set by the Commission and the Commission approves such agreement, the terms and conditions shall be included in the final order. In the case of an order under section 210, if the parties fail to agree within the time set by the Commission or if the Commission does not approve any such agreement, the Commission shall prescribe such terms and conditions and include such terms and conditions in the final order.

"(B) In the case of any order applied for under section 211, if the parties fail to agree within the time set by the Commission, the Commission shall prescribe such terms and conditions in the final order.

"(d) If the Commission does not issue any order applied for under section 210 or 211, the Commission shall, by order, deny such application and state the reasons for such denial.

"(e) No provision of section 210 or 211 shall be treated—

"(1) as requiring any person to utilize the authority of such section 210 or 211 in lieu of any other authority of law, or

"(2) as limiting, impairing, or otherwise affecting any authority of the Commission under any other provision of law.

"(f)(1) No order under section 210 or 211 requiring the Tennessee Valley Authority (hereinafter in this subsection referred to as the

'TVA') to take any action shall take effect for 60 days following the date of issuance of the order. Within 60 days following the issuance by the Commission of any order under section 210 or of section 211 requiring the TVA to enter into any contract for the sale or delivery of power, the Commission may on its own motion initiate, or upon petition of any aggrieved person shall initiate, an evidentiary hearing to determine whether or not such sale or delivery would result in violation of the third sentence of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), hereinafter in this subsection referred to as the TVA Act.

"(2) Upon initiation of any evidentiary hearing under paragraph (1), the Commission shall give notice thereof to any applicant who applied for and obtained the order from the Commission, to any electric utility or other entity subject to such order, and to the public, and shall promptly make the determination referred to in paragraph (1). Upon initiation of such hearing, the Commission shall stay the effectiveness of the order under section 210 or 211 until whichever of the following dates is applicable—

Ante, pp. 2135, 2137.

"(A) the date on which there is a final determination (including any judicial review thereof under paragraph (3)) that no such violation would result from such order, or

"(B) the date on which a specific authorization of the Congress (within the meaning of the third sentence of section 15d(a) of the TVA Act) takes effect.

"(3) Any determination under paragraph (1) shall be reviewable only in the appropriate court of the United States upon petition filed by any aggrieved person or municipality within 60 days after such determination, and such court shall have jurisdiction to grant appropriate relief. Any applicant who applied for and obtained the order under section 210 or 211, and any electric utility or other entity subject to such order shall have the right to intervene in any such proceeding in such court. Except for review by such court (and any appeal or other review by an appellate court of the United States), no court shall have jurisdiction to consider any action brought by any person to enjoin the carrying out of any order of the Commission under section 210 or section 211 requiring the TVA to take any action on the grounds that such action requires a specific authorization of the Congress pursuant to the third sentence of section 15d(a) of the TVA Act.".

16 USC 824.

(b) Application of Federal Power Act.—(1) Section 201(b) of such Act is amended by inserting "(1)" after "(b)", by inserting "except as provided in paragraph (2)" after "but" in the first sentence thereof. and by adding the following at the end thereof:

Ante, p. 3138.

"(2) The provisions of sections 210, 211, and 212 shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this Act with respect to such provisions. Compliance with any order of the Commission under the provisions of section 210 or 211, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than the purposes specified in the preceding sentence.".

(2) Section 201(e) of such Act is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212)" after "under this part".

16 USC 824a–1.

SEC. 205. POOLING.

(a) State Laws.—The Commission may, on its own motion, and shall, on application of any person or governmental entity, after public notice and notice to the Governor of the affected State and after affording an opportunity for public hearing, exempt electric utilities, in whole or in part, from any provision of State law, or from any State rule or regulation, which prohibits or prevents the voluntary coordination of electric utilities, including any agreement for central dispatch, if the Commission determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area. No such exemption may be granted if the Commission finds that such provision of State law, or rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare, or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

(b) Pooling Study.—(1) The Commission, in consultation with the reliability councils established under section 202(a) of the Federal Power Act, the Secretary, and the electric utility industry shall study the opportunities for—

16 USC 824a.

(A) conservation of energy,

(B) optimization in the efficiency of use of facilities and resources, and

(C) increased reliability,

through pooling arrangements. Not later than 18 months after the date of the enactment of this Act, the Commission shall submit a report containing the results of such study to the President and the Congress.

(2) The Commission may recommend to electric utilities that such utilities should voluntarily enter into negotiations where the opportunities referred to in paragraph (1) exist. The Commission shall report annually to the President and the Congress regarding any such recommendations and subsequent actions taken by electric utilities, by the Commission, and by the Secretary under this Act, the Federal Power Act, and any other provision of law. Such annual reports shall be included in the Commission's annual report required under the Department of Energy Organization Act.

Report to President and Congress.

42 USC 7101 note.

SEC. 206. CONTINUANCE OF SERVICE.

(a) Amendment of Federal Power Act.—Section 202 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

16 USC 824a.

"(g) In order to insure continuity of service to customers of public utilities, the Commission shall require, by rule, each public utility to—

"(1) report promptly to the Commission and any appropriate State regulatory authorities any anticipated shortage of electric energy or capacity which would affect such utility's capability of serving its wholesale customers,

"(2) submit to the Commission, and to any appropriate State regulatory authority, and periodically revise, contingency plans respecting—

"(A) shortages of electric energy or capacity, and

"(B) circumstances which may result in such shortages, and

"(3) accommodate any such shortages or circumstances in a manner which shall—

"(A) give due consideration to the public health, safety, and welfare, and

"(B) provide that all persons served directly or indirectly by such public utility will be treated, without undue prejudice or disadvantage.".

16 USC 824a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not affect any proceeding of the Commission pending on the date of the enactment of this Act or any case pending on such date respecting a proceeding of the Commission.

SEC. 207. CONSIDERATION OF PROPOSED RATE INCREASES.

16 USC 824d.

(a) NOTICE PERIOD.—Section 205(d) of the Federal Power Act is amended by striking out "thirty" each place it appears and substituting "sixty".

16 USC 824d note.

Report to Congress.

(b) STUDY.—The chairman of the Federal Energy Regulatory Commission, in consultation with the Secretary, is directed to conduct a study of the legal requirements and administrative procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act for the purposes of (1) providing for expeditious handling of hearings consistent with due process, (2) preventing the imposition of successive rate increases before they have been determined by the Commission to be just and reasonable and otherwise lawful, and (3) improving procedures designed to prohibit anticompetitive or unreasonable differences in wholesale and retail rates, or both. The chairman shall report to Congress within nine months from the date of enactment of this Act on the results of the study required under this section, on the administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid the purposes of this section.

SEC. 208. AUTOMATIC ADJUSTMENT CLAUSES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(f)(1) Not later than 2 years after the date of the enactment of this subsection and not less often than every 4 years thereafter, the Commission shall make a thorough review of automatic adjustment clauses in public utility rate schedules to examine—

"(A) whether or not each such clause effectively provides incentives for efficient use of resources (including economical purchase and use of fuel and electric energy), and

"(B) whether any such clause reflects any costs other than costs which are—

"(i) subject to periodic fluctuations and

"(ii) not susceptible to precise determinations in rate cases prior to the time such costs are incurred.

Such review may take place in individual rate proceedings or in generic or other separate proceedings applicable to one or more utilities.

"(2) Not less frequently than every 2 years, in rate proceedings or in generic or other separate proceedings, the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses.

"(3) The Commission may, on its own motion or upon complaint, after an opportunity for an evidentiary hearing, order a public utility to—

"(A) modify the terms and provisions of any automatic adjustment clause, or

"(B) cease any practice in connection with the clause,

if such clause or practice does not result in the economical purchase and use of fuel, electric energy, or other items, the cost of which is included in any rate schedule under an automatic adjustment clause.

"(4) As used in this subsection, the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include any rate which takes effect subject to refund and subject to a later determination of the appropriate amount of such rate.".

"Automatic adjustment clause."

SEC. 209. RELIABILITY.

16 USC 824a-2.

(a) STUDY.—(1) The Secretary, in consultation with the Commission, shall conduct a study with respect to—

(A) the level of reliability appropriate to adequately serve the needs of electric consumers, taking into account cost effectiveness and the need for energy conservation,

(B) the various methods which could be used in order to achieve such level of reliability and the cost effectiveness of such methods, and

(C) the various procedures that might be used in case of an emergency outage to minimize the public disruption and economic loss that might be caused by such an outage and the cost effectiveness of such procedures.

Such study shall be completed and submitted to the President and the Congress not later than 18 months after the date of the enactment of this Act. Before such submittal the Secretary shall provide an opportunity for public comment on the results of such study.

Report to President and Congress.

(2) The study under paragraph (1) shall include consideration of the following:

(A) the cost effectiveness of investments in each of the components involved in providing adequate and reliable electric service, including generation, transmission, and distribution facilities, and devices available to the electric consumer;

(B) the environmental and other effects of the investments considered under subparagraph (A);

(C) various types of electric utility systems in terms of generation, transmission, distribution and customer mix, the extent to which differences in reliability levels may be desirable, and the cost-effectiveness of the various methods which could be used to decrease the number and severity of any outages among the various types of systems;

(D) alternatives to adding new generation facilities to achieve such desired levels of reliability (including conservation);

(E) the cost-effectiveness of adding a number of small, decentralized conventional and nonconventional generating units rather than a small number of large generating units with a similar total megawatt capacity for achieving the desired level of reliability; and

(F) any standards for electric utility reliability used by, or suggested for use by, the electric utility industry in terms of cost-effectiveness in achieving the desired level of reliability, including equipment standards, standards for operating procedures and training of personnel, and standards relating the number and severity of outages to periods of time.

(b) EXAMINATION OF RELIABILITY ISSUES BY RELIABILITY COUNCILS.—The Secretary, in consultation with the Commission, may, from time to time, request the reliability councils established under section 202(a) of the Federal Power Act or other appropriate persons (including Federal agencies) to examine and report to him concerning

16 USC 824a.

any electric utility reliability issue. The Secretary shall report to the Congress (in its annual report or in the report required under subsection (a) if appropriate) the results of any examination under the preceding sentence. Report to Congress.

(c) Department of Energy Recommendations.—The Secretary, in consultation with the Commission, and after opportunity for public comment, may recommend industry standards for reliability to the electric utility industry, including standards with respect to equipment, operating procedures and training of personnel, and standards relating to the level or levels of reliability appropriate to adequately and reliably serve the needs of electric consumers. The Secretary shall include in his annual report—

(1) any recommendations made under this subsection or any recommendations respecting electric utility reliability problems under any other provision of law, and

(2) a description of actions taken by electric utilities with respect to such recommendations.

SEC. 210. COGENERATION AND SMALL POWER PRODUCTION.

16 USC 824a-3.

(a) Cogeneration and Small Power Production Rules.—Not later than 1 year after the date of enactment of this Act, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage cogeneration and small power production which rules require electric utilities to offer to—

(1) sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities and

(2) purchase electric energy from such facilities.

Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments. Such rules shall include provisions respecting minimum reliability of qualifying cogeneration facilities and qualifying small power production facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Such rules may not authorize a qualifying cogeneration facility or qualifying small power production facility to make any sale for purposes other than resale.

(b) Rates for Purchases by Electric Utilities.—The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

(c) Rates for Sales by Utilities.—The rules prescribed under subsection (a) shall insure that, in requiring any electric utility to offer to sell electric energy to any qualifying cogeneration facility or qualifying small power production facility, the rates for such sale—

(1) shall be just and reasonable and in the public interest, and

(2) shall not discriminate against the qualifying cogenerators or qualifying small power producers.

(d) Definition.—For purposes of this section, the term "incremental cost of alternative electric energy" means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

(e) Exemptions.—(1) Not later than 1 year after the date of enactment of this Act and from time to time thereafter, the Commission shall, after consultation with representatives of State regulatory authorities, electric utilities, owners of cogeneration facilities and owners of small power production facilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments, prescribe rules under which qualifying cogeneration facilities and qualifying small power production facilities are exempted in whole or part from the Federal Power Act, from the Public Utility Holding Company Act, from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

Rules.

16 USC 791a.
15 USC 79.

(2) No qualifying small power production facility which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), exceeds 30 megawatts may be exempted under rules under paragraph (1) from any provision of law or regulation referred to in paragraph (1), except that any qualifying small power production facility which produces electric energy solely by the use of biomass as a primary energy source, may be exempted by the Commission under such rules from the Public Utility Holding Company Act and from State laws and regulations referred to in such paragraph (1).

(3) No qualifying small power production facility or qualifying cogeneration facility may be exempted under this subsection from—

(A) any State law or regulation in effect in a State pursuant to subsection (f),

(B) the provisions of section 210, 211, or 212 of the Federal Power Act or the necessary authorities for enforcement of any such provision under the Federal Power Act, or

Ante, pp. 3135, 3137, 3138.

(C) any license or permit requirement under part I of the Federal Power Act, any provision under such Act related to such a license or permit requirement, or the necessary authorities for enforcement of any such requirement.

(f) Implementation of Rules for Qualifying Cogeneration and Qualifying Small Power Production Facilities.—(1) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each State regulatory authority shall, after notice and opportunity for public hearing, implement such rule (or revised rule) for each electric utility for which it has ratemaking authority.

Notice and hearing.

(2) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) or revised under such subsection, each nonregulated electric utility shall, after notice and opportunity for public hearing, implement such rule (or revised rule).

Notice and hearing.

(g) Judicial Review and Enforcement.—(1) Judicial review may be obtained respecting any proceeding conducted by a State regulatory authority or nonregulated electric utility for purposes of implementing any requirement of a rule under subsection (a) in the same manner, and under the same requirements, as judicial review may be obtained under section 123 in the case of a proceeding to which section 123 applies.

(2) Any person (including the Secretary) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f). Any such action shall be brought only in the manner, and under the requirements, as provided under section 123 with respect to an action to which section 123 applies.

(h) COMMISSION ENFORCEMENT.—(1) For purposes of enforcement of any rule prescribed by the Commission under subsection (a) with respect to any operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under part II of the Federal Power Act, such rule shall be treated as a rule under the Federal Power Act. Nothing in subsection (g) shall apply to so much of the operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility as are subject to the jurisdiction of the Commission under part II of the Federal Power Act. 16 USC 824.

(2)(A) The Commission may enforce the requirements of subsection (f) against any State regulatory authority or nonregulated electric utility. For purposes of any such enforcement, the requirements of subsection (f)(1) shall be treated as a rule enforceable under the Federal Power Act. For purposes of any such action, a State regulatory authority or nonregulated electric utility shall be treated as a person within the meaning of the Federal Power Act. No enforcement action may be brought by the Commission under this section other than— 16 USC 791a.

(i) an action against the State regulatory authority or nonregulated electric utility for failure to comply with the requirements of subsection (f) or

(ii) an action under paragraph (1).

(B) Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) as provided in subparagraph (A) of this paragraph. If the Commission does not initiate an enforcement action under subparagraph (A) against a State regulatory authority or nonregulated electric utility within 60 days following the date on which a petition is filed under this subparagraph with respect to such authority, the petitioner may bring an action in the appropriate United States district court to require such State regulatory authority or nonregulated electric utility to comply with such requirements, and such court may issue such injunctive or other relief as may be appropriate. The Commission may intervene as a matter of right in any such action.

(i) FEDERAL CONTRACTS.—No contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into after the date of the enactment of this Act may contain any provision which will have the effect of preventing the implementation of any rule under this section with respect to such utility. Any provision in any such contract which has such effect shall be null and void.

(j) Definitions.—For purposes of this section, the terms "small power production facility", "qualifying small power production facility", "qualifying small power producer", "primary energy source", "cogeneration facility", "qualifying cogeneration facility", and "qualifying cogenerator" have the respective meanings provided for such terms under section 3 (17) and (18) of the Federal Power Act. *Ante*, p. 3134.

SEC. 211. INTERLOCKING DIRECTORATES.

(a) Amendment of Federal Power Act.—Section 305 of the Federal Power Act is amended by adding the following new subsection at the end thereof: **16 USC 825d.**

"(c)(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

"(2) The entities listed for purposes of paragraph (1) are as follows—

"(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

"(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

"(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

"(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

"(E) any entity referred to in subsection (b); and

"(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

"(3) For purposes of this subsection— **Definitions.**

"(A) The term 'public utility' includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

"(B) The terms 'holding company', 'registered holding company', and 'holding company system' have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

(b) Effective Date.—No person shall be required to file a statement under section 305(c)(1) of the Federal Power Act before April **16 USC 825d note.**

30 of the second calendar year which begins after the date of the enactment of this Act and no public utility shall be required to publish a list under section 305(c)(2) of such Act before January 31 of such second calendar year.

SEC. 212. PUBLIC PARTICIPATION BEFORE FEDERAL ENERGY REGULATORY COMMISSION.

16 USC 791a note, 825r.
16 USC 825q.

The Federal Power Act is amended by redesignating sections 319 and 320 as 320 and 321, respectively, and by inserting the following new section after section 318:

"OFFICE OF PUBLIC PARTICIPATION

16 USC 825q-1.

"SEC. 319. (a)(1) There shall be an office in the Commission to be known as the Office of Public Participation (hereinafter in this section referred to as the 'Office').

"(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the Chairman with the approval of the Commission. The Director may be removed during his term of office by the Chairman, with the approval of the Commission, only for inefficiency, neglect of duty, or malfeasance in office.

"(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated at a rate not in excess of the maximum rate prescribed for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

5 USC 5332 note.

"(3) The Director may appoint, and assign the duties of, employees of such Office, and with the concurrence of the Commission he may fix the compensation of such employees and procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code.

"(b)(1) The Director shall coordinate assistance to the public with respect to authorities exercised by the Commission. The Director shall also coordinate assistance available to persons intervening or participating or proposing to intervene or participate in proceedings before the Commission.

"(2) The Commission may, under rules promulgated by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person. Such compensation may be paid only if the Commission has determined that—

"(A) the proceeding is significant, and

"(B) such person's intervention or participation in such proceeding without receipt of compensation constitutes a significant financial hardship to him.

"(3) Nothing in this subsection affects or restricts any rights of any intervenor or participant under any other applicable law or rule of law.

Appropriation authorization.

"(4) There are authorized to be appropriated to the Secretary of Energy to be used by the Office for purposes of compensation of persons under the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.".

SEC. 213. CONDUIT HYDROELECTRIC FACILITIES.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 30. (a) Except as provided in subsection (b) or (c), the Commission may grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order— 16 USC 823a.

"(1) is located on non-Federal lands, and

"(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

"(b) The Commission may not grant any exemption under subsection (a) to any facility the installed capacity of which exceeds 15 megawatts.

"(c) In making the determination under subsection (a) the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

"(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

"(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

"(d) Any violation of a term or condition of any exemption granted under subsection (a) shall be treated as a violation of a rule or order of the Commission under this Act.".

SEC. 214. PRIOR ACTION; EFFECT ON OTHER AUTHORITIES.

(a) PRIOR ACTIONS.—No provision of this title or of any amendment made by this title shall apply to, or affect, any action taken by the Commission before the date of the enactment of this Act. 16 USC 824 note.

(b) OTHER AUTHORITIES.—No provision of this title or of any amendment made by this title shall limit, impair or otherwise affect any authority of the Commission or any other agency or instrumentality of the United States under any other provision of law except as specifically provided in this title.

TITLE III—RETAIL POLICIES FOR NATURAL GAS UTILITIES

SEC. 301. PURPOSES; COVERAGE.

(a) PURPOSES.—The purposes of this title are to encourage— 15 USC 3201.

(1) conservation of energy supplied by gas utilities;

(2) the optimization of the efficiency of use of facilities and resources by gas utility systems; and

(3) equitable rates to gas consumers of natural gas.

(b) VOLUME OF TOTAL RETAIL SALES.—This title applies to each gas utility in any calendar year, and to each proceeding relating to each gas utility in such year, if the total sales of natural gas by such utility for purposes other than resale exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(c) Exclusion of Wholesale Sales.—The requirements of this title do not apply to the operations of a gas utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of natural gas for purposes of resale.

(d) List of Covered Utilities.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each gas utility to which this title applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each gas utility on the list for which such State regulatory authority has ratemaking authority.

15 USC 3202.

SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term "gas consumer" means any person, State agency, or Federal agency, to which natural gas is sold other than for purposes of resale.

(2) The term "gas utility" means any person, State agency, or Federal agency, engaged in the local distribution of natural gas, and the sale of natural gas to any ultimate consumer of natural gas.

(3) The term "State regulated gas utility" means any gas utility with respect to which a State regulatory authority has ratemaking authority.

(4) The term "nonregulated gas utility" means any gas utility other than a State regulated gas utility.

(5) The term "rate" means any (A) price, rate, charge, or classification made, demanded, observed, or received with respect to sale of natural gas to a gas consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of natural gas to a gas consumer.

(6) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(7) The term "sale", when used with respect to natural gas, includes an exchange of natural gas.

(8) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of natural gas by any gas utility (other than by such State agency).

15 USC 3203.

Notice and hearing.

SEC. 303. ADOPTION OF CERTAIN STANDARDS.

(a) Adoption of Standards.—Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall—

(1) adopt the standard established by subsection (b)(1) if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(2) if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) and (2) and any review of such determination in any court under section 307, the purposes of this title supplement State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) ESTABLISHMENT.—The following Federal standards are hereby established:

Federal standards.

(1) PROCEDURES FOR TERMINATION OF NATURAL GAS SERVICE.—No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in section 304(a).

(2) ADVERTISING.—No gas utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 304(b).

(c) PROCEDURAL REQUIREMENTS.—Each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility, within the 2-year period specified in subsection (a), shall adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, with respect to any such standard which is not adopted, such authority or nonregulated gas utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

SEC. 304. SPECIAL RULES FOR STANDARDS.

15 USC 3204.

(a) PROCEDURES FOR TERMINATION OF GAS SERVICE.—The procedures for termination of service referred to in section 303(b)(1) are procedures prescribed by the State regulatory authority (with respect to gas utilities for which it has ratemaking authority) or the nonregulated gas utility which provide that—

(1) no gas service to a gas consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to a gas consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to each gas utility for which it has ratemaking authority) or nonregulated gas utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(b) ADVERTISING.—(1) For purposes of this section and section 303—

Definitions.

(A) The term "advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's gas consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of a gas utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this section and section 303, the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs natural gas consumers how they can conserve natural gas or can reduce peak demand for natural gas,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act,

Post, p. 3209.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notification of hearings thereon.

15 USC 3205.

SEC. 305. FEDERAL PARTICIPATION.

(a) INTERVENTION.—In addition to the authorities vested in the Secretary pursuant to any other provision of law, the Secretary, on his own motion, may intervene as a matter of right in any proceeding before a State regulatory authority which relates to gas utility rates or rate design. Such intervention shall be solely for the purpose of advocating policies or methods which carry out the purposes set forth in section 301 of this title.

(b) RIGHTS.—The Secretary shall have the same rights as any other party to a proceeding before a State regulatory authority which relates to gas utility rates or rate design.

(c) NONREGULATED GAS UTILITIES.—The Secretary, on his own motion, may, to the same extent as provided in subsections (a) through (b), intervene as a matter of right in any proceeding which relates to rates or rate design of nonregulated gas utilities.

15 USC 3206.

SEC. 306. GAS UTILITY RATE DESIGN PROPOSALS.

Report to Congress.

(a) STUDY.—(1) the Secretary, in consultation with the Commission and, after affording an opportunity for consultation and comment by representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design within 18 months after the date of the enactment of this Act. Such study shall address the effect (both separately and in combination) of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The items referred to in paragraph (1) are as follows:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from gas utility designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) Proposals.—Based upon the study prepared pursuant to subsection (a), the Secretary shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include any comments and recommendations of the Commission.

(c) Transmission to Congress.—The proposals prepared under subsection (b) shall be transmitted, together with any legislative recommendations, to each House of Congress not later than 6 months after the date of submission of the study under subsection (a). Such proposals shall be accompanied by an analyses of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of such proposals, and

(3) the effects of the proposals on other provisions of this Act on gas utility rate structures.

(d) Public Participation.—The Secretary shall provide for public participation in the conduct of the study under subsection (a) and the preparation of proposals under subsection (b).

SEC. 307. JUDICIAL REVIEW AND ENFORCEMENT.

15 USC 3207.

(a) Limitation of Federal Jurisdiction.—(1) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of this title except for—

(A) an action over which a court of the United States has jurisdiction under paragraph (2), or

(B) review in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28 of the United States Code.

(2) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene under section 305 and such court shall have jurisdiction to grant appropriate relief.

(b) Enforcement.—(1) Any person may bring an action to enforce the requirements of this title in the appropriate State court. Such action in a State court shall be pursuant to applicable State procedures.

(2) Nothing in this title shall authorize the Secretary to appeal or otherwise seek judicial review of the decisions of a State regulatory authority or nonregulated gas utility or to become a party to any action to obtain such review or appeal. The Secretary may participate as an amicus curiae in any judicial review of an action arising under the provisions of this title.

SEC. 308. RELATIONSHIP TO OTHER APPLICABLE LAW.

15 USC 3208.

Nothing in this title prohibits any State regulatory authority or nonregulated gas utility from adopting, pursuant to State law, any standard or rule affecting gas utilities which is different from any standard established by this title.

SEC. 309. REPORTS RESPECTING STANDARDS.

15 USC 3209.

(a) State Authorities and Nonregulated Utilities.—Not later than 1 year after the date of the enactment of this Act and annually thereafter for 10 years, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority), and each nonregulated gas utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by this title. Such report shall include a summary of the determinations made and actions taken with respect to each of such standards on a utility-by-utility basis.

(b) SECRETARY.—Not later than 18 months after the date of the enactment of this Act and annually thereafter for 10 years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a),

(2) his analysis of such reports, and

(3) his actions under this title, and his recommendations for such further Federal actions, including any legislation, regarding retail gas utility rates (and other practices) as may be necessary to carry out the purposes of this title.

15 USC 3210.

SEC. 310. PRIOR AND PENDING PROCEEDINGS.

For purposes of this title, proceedings commenced by any State regulatory authority (with respect to gas utilities for which it has ratemaking authority) and any nonregulated gas utility before the date of the enactment of this Act and actions taken before such date in such proceedings shall be treated as complying with the requirements of this title if such proceedings and actions substantially conform to such requirements. For purposes of this title, any such proceeding or action commenced before the date of enactment of this Act but not completed before such date shall comply with the requirements of this title, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date.

15 USC 3211.

SEC. 311. RELATIONSHIP TO OTHER AUTHORITY.

Nothing in this title shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

TITLE IV—SMALL HYDROELECTRIC POWER PROJECTS

16 USC 2701.

SEC. 401. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish a program in accordance with this title to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

16 USC 2702.

SEC. 402. LOANS FOR FEASIBILITY STUDIES.

(a) LOAN AUTHORITY.—The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) CANCELLATION.—The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power project would not be technically or economically feasible.

SEC. 403. LOANS FOR PROJECT COSTS.

16 USC 2703.

(a) AUTHORITY.—The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for period of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) PREFERENCE.—The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) INFORMATION.—Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974.

15 USC 796.

(d) JOINT PARTICIPATION.—In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

SEC. 404. LOAN RATES AND REPAYMENT.

16 USC 2704.

(a) INTEREST.—Each loan made pursuant to this title shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962–17(a)). Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 402) or

(2) 30 years (in the case of a loan under section 403).

(b) Repayments.—Amounts repaid on loans made pursuant to this title shall be deposited into the United States Treasury as miscellaneous receipts.

16 USC 2705.

SEC. 405. SIMPLIFIED AND EXPEDITIOUS LICENSING PROCEDURES.

(a) Establishment of Program.—The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act for small hydroelectric power projects in connection with existing dams.

16 USC 791a.

(b) Prerequisites.—Before issuing any license under the Federal Power Act for the construction or operation of any small hydroelectric power project the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law.

42 USC 4321 note, 16 USC 661 note.
16 USC 1531 note.

(c) Fish and Wildlife Facilities.—The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

16 USC 2706.

SEC. 406. NEW IMPOUNDMENTS.

Nothing in this title authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

16 USC 2707.

SEC. 407. AUTHORIZATIONS.

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 402, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 403, such funds to remain available until expended.

16 USC 2708.

SEC. 408. DEFINITIONS.

For purposes of this title, the term—

(1) "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904);

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954;

26 USC 103.

(4) "project costs" means the cost of acquisiiton or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization); 26 USC 501. 26 USC 513.

(6) "existing dam" means any dam, the construction of which was completed or on before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "municipality" has the meaning provided in section 3 of the Federal Power Act; and

(8) "person" has the meaning provided in section 3 of the Federal Power Act. 16 USC 796.

TITLE V—CRUDE OIL TRANSPORTATION SYSTEMS

SEC. 501. FINDINGS.

43 USC 2001.

The Congress finds and declares that—

(1) a serious crude oil supply shortage may soon exist in portions of the United States;

(2) a large surplus of crude oil on the west coast of the United States is projected;

(3) any substantial curtailment of Canadian crude oil exports to the United States could create a severe crude oil shortage in the northern tier States;

(4) pending the authorization and completion of west-to-east crude oil delivery systems, Alaskan crude oil in excess of west coast needs will be transshipped through the Panama Canal at a high transportation cost;

(5) national security and regional supply requirements may be such that west-to-east crude delivery systems serving both the northern tier States and inland States, consistent with the requirements of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, are needed; 43 USC 1651 note.

(6) expeditious Federal and State decisions for west-to-east crude oil delivery systems are of the utmost priority; and

(7) resolution of the west coast crude oil surplus and the need for crude oil in northern tier States and inland States require the assignment and coordination of overall responsibility within the executive branch to permit expedited action on all necessary environmental assessments and decisions on permit applications concerning delivery systems.

SEC. 502. STATEMENT OF PURPOSES.

43 USC 2002.

The purposes of this title are—

(1) to provide a means for—

(A) selecting delivery systems to transport Alaskan and other crude oil to northern tier States and inland States, and

(B) resolving both the west coast crude oil surplus and the crude oil supply problems in the northern tier States;

(2) to provide an expedited procedure for acting on applications for all Federal permits, licenses, and approvals required for the construction and operation or any transportation system approved under this title and the Long Beach-Midland project; and

(3) to assure that Federal decisions with respect to crude oil transportation systems are coordinated with State decisions to the maximum extent practicable.

43 USC 2003.

SEC. 503. DEFINITIONS.

As used in this title—

(1) The term "northern tier States" means the States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(2) The term "inland States" means those States in the United States other than northern tier States and the States of California, Alaska, and Hawaii.

(3) The term "crude oil transportation system" means a crude oil delivery system (including the location of such system) for transporting Alaskan and other crude oil to northern tier States and inland States, but such term does not include the Long Beach-Midland project.

(4) The term "Long Beach-Midland project" means the crude oil delivery system which was the subject of, and is generally described in, the "Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas (as proposed by Sohio Transportation Company)", the availability of which was announced by the Department of the Interior in the Federal Register on June 1, 1977 (42 Fed. Reg. 28008).

(5) The term "Federal agency" means an Executive agency, as defined in section 105 of title 5, United States Code.

43 USC 2004.

SEC. 504. APPLICATIONS FOR APPROVAL OF PROPOSED CRUDE OIL TRANSPORTATION SYSTEMS.

The following applications for construction and operation of a crude oil transportation system submitted to the Secretary of the Interior by an applicant are eligible for consideration under this title:

(1) Applications received by the Secretary before the 30th day after the date of the enactment of this Act.

(2) Applications received by the Secretary during the 60-day period beginning on the 30th day after the date of the enactment of this Act, if the Secretary determines that consideration and review of the proposal contained in such application is in the national interest and that such consideration and review could be completed within the time limits established under this title.

An application under this section may be accepted by the Secretary only if it contains a general description of the route of the proposed system and identification of the applicant and any other person who, at the time of filing, has a financial or other interest in the system or is a party to an agreement under which such person would acquire a financial or other interest in the system.

43 USC 2005.

SEC. 505. REVIEW SCHEDULE.

(a) ESTABLISHMENT.—The Secretary of the Interior, after consultation with the heads of appropriate Federal agencies, shall establish an expedited schedule for conducting reviews and making recommendations concerning crude oil transportation systems proposed in applications filed under section 504 and for obtaining information necessary for environmental impact statements required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to such proposed systems.

(b) ADDITIONAL INFORMATION.—(1) On his own initiative or at the request of the head of any Federal agency covered by the review schedule established under subsection (a), the Secretary of the Interior shall require that an applicant provide such additional information as may be necessary to conduct the review of the applicant's proposal. Such information may include—

(A) specific details of the route (and alternative routes) and identification of Federal lands affected by any such route;

(B) information necessary for environmental impact statements; and

(C) information necessary for the President's determination under section 507(a).

(2) If, within a reasonable time, an applicant does not—

(A) provide information required under this subsection, or

(B) comply with any requirement of section 304 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2765; 43 U.S.C. 1734),

the Secretary of the Interior may declare the application ineligible for consideration under this title. After making such a declaration, the Secretary of the Interior shall notify the applicant and the President of such ineligibility.

Notification to the President.

(c) RECOMMENDATIONS OF THE HEADS OF FEDERAL AGENCIES.—(1) Pursuant to the schedule established under subsection (a), heads of Federal agencies covered by such schedule shall conduct a review of a proposed crude oil transportation system eligible for consideration under this title and shall submit their recommendations concerning such systems (and the basis for such recommendations) to the Secretary of the Interior for submission to the President. After receipt of such recommendations and before their submission to the President, the Secretary of the Interior shall provide an opportunity for comments in accordance with paragraph (2). The Secretary of the Interior shall forward such comments to the President with the recommendations—

Crude oil transportation system, review.

(A) in the case of applications filed under section 504(1), on or before December 1, 1978, and

(B) in the case of applications filed under section 504(2), on or before the 60th day after December 1, 1978.

(2)(A) After receipt of recommendations under paragraph (1) the Secretary of the Interior shall provide appropriate means by which the Governor and any other official of any State and any official of any political subdivision of a State, may submit written comments concerning proposed crude oil transportation systems eligible for consideration under this title.

(B) After receipt of recommendations referred to in subparagraph (A), the Secretary of the Interior shall make such comments and recommendations available to the public and provide an opportunity for submission of written comments.

(d) REVIEW BY THE FEDERAL TRADE COMMISSION; EFFECT ON THE ANTITRUST LAWS.—(1) Promptly after he receives an application for a proposed crude oil transportation system eligible for consideration under this title, the Secretary of the Interior shall submit to the Federal Trade Commission a copy of such application and such other information as the Commission may reasonably require. The Com-

Report to President.

mission may prepare and submit to the President a report on the impact of implementation of such application upon competition and restraint of trade and on whether such implementation would be inconsistent with the antitrust laws. Such report shall be made available to the public. Nothing in this subsection shall be construed to prevent the President from making his decision under section 507(a) in the absence of such report.

(2) Nothing in this title shall bar the Attorney General or any other appropriate officer or agent of the United States from challenging any anticompetitive act or practice related to the ownership, construction, or operation of any crude oil transportation system approved under this title. The approval of any such system under this title shall not be deemed to convey to any person immunity from civil or criminal liability or to create defenses to actions under the antitrust laws and shall not modify or abridge any private right of action under such laws.

(e) FILING AND REVIEW OF PERMITS, RIGHTS-OF-WAY APPLICATIONS, ETC., NOT AFFECTED.—Nothing in this title shall be construed to prevent the acceptance and review by any Federal agency of any application for any Federal permit, right-of-way, or other authorizations under other provisions of law for a crude oil transportation system eligible for consideration under this title; except that any determination with respect to such an application may be made only in accordance with the provisions of section 509(a).

43 USC 2006.

SEC. 506. ENVIRONMENTAL IMPACT STATEMENTS.

(a) PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS.—Any Federal agency required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) to issue an environmental impact statement concerning a proposed crude oil transportation system eligible for consideration under this title shall, in preparing such statement, utilize, to the maximum extent practicable and consistent with such Act, appropriate data, analyses, conclusions, findings, and decisions regarding environmental impacts developed or made by any other Federal or State agency.

Submittal to President.

(b) FILING OF ENVIRONMENTAL IMPACT STATEMENTS.—On or before December 1, 1978, all environmental impact statements concerning proposed crude oil transportation systems eligible for consideration under this title and required under section 102 of the National Environmental Policy Act of 1969 shall be completed, made available for public review and comment, revised to the extent appropriate in light of such comment, and submitted to the President and the Council on Environmental Quality; except that in the case of any environmental impact statement concerning any crude oil transportation system which is eligible for consideration and which was filed under section 504(2) of this title, such actions may be taken not later than 60 days after December 1, 1978.

(c) REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—Promptly after receiving an environmental impact statement referred to in subsection (b) for a crude oil transportation system, the Council on Environmental Quality shall submit to the President a report on the Council's opinion concerning such statement and concerning other matters related to the environmental impact of such system.

43 USC 2007.

SEC. 507. DECISION OF THE PRESIDENT.

(a) DECISION CONCERNING APPROVAL OR DISAPPROVAL OF PROPOSED SYSTEMS.—(1) After reviewing all the information submitted to him concerning the various proposed crude oil transportation systems eligible for consideration under this title (including environmental impact statements, comments, reports, recommendations, and other information submitted to him at any time before he makes his decision) and after consulting the Secretaries of Energy, the Interior, and Transportation, the President shall decide which, if any, of such systems shall be approved for the purposes of section 508 (relating to procedures for waiver of law), section 509 (relating to expedited procedures for issuance of permits), section 510 (relating to negotiations with the Government of Canada), and section 511 (relating to judicial review). A decision approving a crude oil transportation system may include such modifications and alterations in such system as the President finds appropriate. The President shall issue his decision within 45 days after receiving recommendations and comments submitted to him under section 505(c), except that the President, for such period as he deems necessary, but not to exceed 60 days, may delay his decision and its issuance if he determines that additional time is otherwise necessary to enable him to make a decision. If the President so delays his decision, he shall promptly notify the House of Representatives and the Senate of such delay and shall submit a full explanation of the basis for such delay.

Notification.

(2) Any decision made under this subsection approving a system proposed under this title shall include a determination that construction and operation of such system is in the national interest and shall be based upon the criteria specified in subsection (b).

(b) CRITERIA.—(1) The criteria for making a decision under this subsection shall include findings of—

(A) environmental impacts of the proposed systems and the capability of such systems to minimize environmental risks resulting from transportation of crude oil;

(B) the amount of crude oil available to northern tier States and inland States and the projected demand in those States under each of such systems;

(C) transportation costs and delivered prices of crude oil by region under each of such systems;

(D) construction schedules for each of such systems and possibilities for delay in such schedules;

(E) feasibility of financing for each of such systems;

(F) capital and operating costs of each of such systems, including an analysis of the reliability of cost estimates and the risk of cost overruns;

(G) net national economic costs and benefits of each such system;

(H) the extent to which each system complies with the provisions of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act;

43 USC 1651 note.

(I) the effect of each such system on international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(J) impact upon competition by each system;

(K) degree of safety and efficiency of design and operation of each system;

(L) potential for interruption of deliveries of crude oil from the west coast under each such system;

(M) capacity and cost of expanding such system to transport additional volumes of crude oil in excess of initial system capacity;

(N) national security considerations under each such system;

(O) relationship of each such system to national energy policy; and

(P) such other factors as the President deems appropriate.

(2) The period of time for which such findings shall be made shall be the useful life of the crude oil transportation system involved.

(c) Publication of Findings and Decision.—The President shall make available to the public at the time of issuance of a decision under this section a written statement setting forth findings with respect to each of the criteria specified in subsection (b) and describing the nature and route of crude oil transportation systems, if any, which are approved in the decision. If the President's decision is to approve a system, each statement shall set forth his reasons for approving such system over other proposed systems (if any) eligible for consideration under this title. Such statement along with notification of such decision shall be published in the Federal Register.

Publication in Federal Register.

43 USC 2008.

SEC. 508. PROCEDURES FOR WAIVER OF FEDERAL LAW.

(a) Waiver of Provisions of Federal Law.—The President may identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the antitrust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation of any such system approved under section 507 or of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal.

(b) Joint Resolution.—The resolving clause of the joint resolution referred to in subsection (a) is as follows: "That the House of Representatives and Senate approve the waiver of the provisions of law (   ) as proposed by the President, submitted to the Congress on   , 19 .". The first blank space therein being filled with the citation to the provisions of law proposed to be waived by the President and the second blank space therein being filled with the date on which the President submits his decision to wave such provisions of law to the House of Representatives and the Senate. Rules and procedures for consideration of any such joint resolution shall be governed by section 8 (c) and (d) of the Alaskan Natural Gas Transportation Act, other than paragraph (2) of section 8(d), except that for the purposes of this subsection, the phrase "a waiver of provisions of law" shall be substituted in section 8(d) each place where the phrase "an Alaska natural gas transportation system" appears.

15 USC 719f.

43 USC 2009.

SEC. 509. EXPEDITED PROCEDURES FOR ISSUANCE OF PERMITS: ENFORCEMENT OF RIGHTS-OF-WAY.

(a) Expedited Procedures for Approved Systems.—After issuance of a decision by the President approving any crude oil transportation system, all Federal officers and agencies shall expedite, to the maximum extent practicable, consistent with applicable provisions of law, all actions necessary to determine whether to issue, administer, or enforce rights-of-way across Federal lands and to issue Federal permits in connection with, or otherwise to authorize, construction and operation of such system. Any such action shall be consistent with applicable provisions of law. After taking any such action, such officer or agency shall publish notification of the taking of such action in the Federal Register.

Publication in Federal Register.

(b) EXPEDITED PROCEDURES FOR LONG BEACH-MIDLAND PROJECT.—All decisions regarding issuance of Federal permits, rights-of-way, and leases and other Federal authorizations necessary for construction and operation of the Long Beach-Midland project shall be consistent with applicable provisions of Federal law, except that such decisions shall be made within 30 days after the date this title becomes effective. The President may extend the date by which such decisions, under the preceding sentence, are to be made to a date not later than 90 days after the effective date of this title. Notification of the making of such decisions shall be published in the Federal Register. Nothing in this section affects any decision made before the date of the enactment of this title.

Publication in Federal Register.

(c) LAW GOVERNING RIGHTS-OF-WAY.—Rights-of-way over any Federal land with respect to an approved crude oil transportation system or the Long Beach-Midland project shall be governed by the provisions of section 28 of the Act of February 25, 1920, commonly referred to as the Mineral Leasing Act of 1920 (30 U.S.C. 185), other than subsection (w)(2) of such section.

SEC. 510. NEGOTIATIONS WITH THE GOVERNMENT OF CANADA.

43 USC 2010.

With respect to any crude oil transportation system approved under section 507(a) all or any part of which is to be located in Canada, the President of the United States is authorized and requested to enter into negotiations with the Government of Canada to determine what measures can be taken to expedite the granting of approvals by the Government of Canada for construction or operation of such system, and he is authorized and requested to explore the possibility of further exchanges of crude oil supplies between the United States and Canada.

SEC. 511. JUDICIAL REVIEW.

43 USC 2011.

Publication in Federal Register.

(a) NOTICE.—The President or any other Federal officer shall cause notice to be published in the Federal Register and in newspapers of general circulation in the areas affected whenever he makes any decision described in subsection (b).

(b) REVIEW OF CERTAIN FEDERAL ACTIONS.—Any action seeking judicial review of an action or decision of the President or any other Federal officer taken or made after the date of the enactment of this Act concerning the approval or disapproval of a crude oil transportation system or the issuance of necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of the Long Beach-Midland project or a crude oil transportation system approved under section 507(a) may only be brought within 60 days after the date on which notification of the action or decision of such officer is published in the Federal Register, or in newspapers of general circulation in the areas affected, whichever is later.

(c) JURISDICTION OF COURTS.—An action under subsection (b) shall be barred unless a petition is filed within the time specified. Any such petition shall be filed in the appropriate United States district court. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. Notwithstanding the amount in controversy, such court shall have jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided and to provide appropriate relief. No State or local court shall have jurisdiction of any such claim whether in a proceeding instituted before, on, or after the date this title becomes effective. Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court. No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization in connection with a crude oil transportation system approved under section 507(a) or the Long Beach-Midland project, except as part of a final judgment entered in a case involving a claim filed pursuant to this section.

43 USC 2012.

SEC. 512. AUTHORIZATION FOR APPROPRIATION.

There are authorized to be appropriated to the Secretary of the Interior to carry out his responsibilities under this title not to exceed $500,000 for the fiscal year ending on September 30, 1978, and not to exceed $1,000,000 for the fiscal year ending on September 30, 1979.

TITLE VI—MISCELLANEOUS PROVISIONS

16 USC 2621 note.

SEC. 601. STUDY CONCERNING ELECTRIC RATES OF STATE UTILITY AGENCIES.

(a) Study and Report.—The Secretary, in consultation with the Commission and appropriate State regulatory authorities and other persons, shall conduct a study concerning the effects of provisions of Federal law on rate established by State utility agencies. The Secretary shall submit a report to Congress containing the results of such study not later than 1 year after the date of the enactment of this Act.

Submittal to Congress.

"State utility agency."

(b) Definition.—The term "State utility agency" means an agency of a State (not including any political subdivision or agency thereof or any public power district) which is an electric utility.

16 USC 824a–4.

SEC. 602. SEASONAL DIVERSITY ELECTRICITY EXCHANGE.

(a) Authority.—The Secretary may acquire rights-of-way by purchase, including eminent domain, through North Dakota, South Dakota, and Nebraska for transmission facilities for the seasonal diversity exchange of electric power to and from Canada if he determines—

(1) after opportunity for public hearing—

(A) that the exchange is in the public interest and would further the purposes referred to in section 101 (1) and (2) of this Act and that the acquisition of such rights-of-way and the construction and operation of such transmission facilities for such purposes is otherwise in the public interest,

Ante, p. 3120.

(B) that a permit has been issued in accordance with subsection (b) for such construction, operation, maintenance, and connection of the facilities at the border for the transmission of electric energy between the United States and Canada as is necessary for such exchange of electric power, and

(C) that each affected State has approved the portion of the transmission route located in each State in accordance with applicable State law, or if there is no such applicable State law in such State, the Governor has approved such portion; and

(2) after consultation with the Secretary of the Interior and the heads of other affected Federal agencies, that the Secretary of the Interior and the heads of such, other agencies concur in writing in the location of such portion of the transmission facilities as crosses Federal land under the jurisdiction of such Secretary or such other Federal agency, as the case may be.

Cooperation and technical assistance.

The Secretary shall provide to any State such cooperation and technical assistance as the State may request and as he determines appropriate in the selection of a transmission route. If the transmission route approved by any State does not appear to be feasible and in the public interest, the Secretary shall encourage such State to review such route and to develop a route that is feasible and in the public interest. Any exercise by the Secretary of the power of eminent domain under this section shall be in accordance with other applicable provisions of Federal law. The Secretary shall provide public notice of his intention to acquire any right-of-way before exercising such power of eminent domain with respect to such right-of-way.

Notice.

(b) PERMIT.—Notwithstanding any transfer of functions under the first sentence of section 301(b) of the Department of Energy Organization Act, no permit referred to in subsection (a)(1)(B) may be issued unless the Commission has conducted hearings and made the findings required under section 202(e) of the Federal Power Act and under the applicable execution order respecting the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country. Any finding of the Commission under an applicable executive order referred to in this subsection shall be treated for purposes of judicial review as an order issued under section 202(e) of the Federal Power Act.

42 USC 7151.

16 USC 824a.

(c) TIMELY ACQUISITION BY OTHER MEANS.—The Secretary may not acquire any rights-of-day under this section unless he determines that the holder or holders of a permit referred to in subsection (a)(1)(B) are unable to acquire such rights-of-way under State condemnation authority, or after reasonable opportunity for negotiation, without unreasonably delaying construction, taking into consideration the impact of such delay on completion of the facilities in a timely fashion.

(d) PAYMENTS BY PERMITTEES.—(1) The property interest acquired by the Secretary under this section (whether by eminent domain or other purchase) shall be transferred by the Secretary to the holder of a permit referred to in subsection (b) if such holder has made payment to the Secretary of the entire costs of the acquisition of such property interest, including administrative costs. The Secretary may accept, and expend, for purposes of such acquisition, amounts from any such person before acquiring a property interest to be transferred to such person under this section.

(2) If no payment is made by a permit holder under paragraph (1), within a reasonable time, the Secretary shall offer such rights-of-way to the original owner for reacquisition at the original price paid by the Secretary. If such original owner refuses to reacquire such property after a reasonable period, the Secretary shall dispose of such property in accordance with applicable provisions of law governing disposal of property of the United States.

(e) FEDERAL LAW GOVERNING FEDERAL LANDS.—This section shall not affect any Federal law governing Federal lands.

(f) REPORTS.—The Secretary shall report annually to the Congress on the actions, if any, taken pursuant to this section.

Report to Congress.

SEC. 603. UTILITY REGULATORY INSTITUTE.

16 USC 2645.

Grants.

(a) MATCHING GRANTS.—The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to—

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) Federal Share.—Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a):

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) Restrictions.—Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) Authorization of Appropriations.—There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

SEC. 604. COAL RESEARCH LABORATORIES.

(a) Designation.—So much of section 801 of the Surface Mining Control and Reclamation Act of 1977 as precedes subsection (b) of paragraph (2) thereof is amended to read as follows: 30 USC 1311.

"ESTABLISHMENT OF UNIVERSITY COAL RESEARCH LABORATORIES

"Sec. 801. (a) The Secretary of Energy, after consultation with the National Academy of Engineering, shall designate thirteen institutions of higher education at which university coal research laboratories will be established and operated. Ten such designations shall be made as provided in subsection (e) and the remaining three shall be made in fiscal year 1980.

"(b) In making designations under this section, the Administrator shall consider the following criteria:

"(1) Those ten institutions of higher education designated as provided in subsection (e) shall be located in a State with abundant coal reserves.".

(b) Authorization of Appropriations.—Section 806 of such Act is amended to read as follows: 30 USC 1316.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 806. (a) For the ten institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $30,000,000 for the fiscal year ending September 30, 1979 (including the cost of construction, equipment, and startup expenses), and not to exceed $7,500,000 for the fiscal year 1980 and for each fiscal year thereafter through the fiscal year ending before October 1, 1984, to carry out the provisions of this title.

"(b) For the three remaining institutions referred to in the last sentence of section 801(a), there are authorized to be appropriated not to exceed $6,500,000 for the fiscal year 1980 (including the cost of construction, equipment, and startup expenses), and not to exceed $2,000,000 for each fiscal year after fiscal year 1980 ending before October 1, 1984, to carry out the provisions of this title.".

30 USC 1311.

(c) CONFORMING AMENDMENT.—Title VIII of such Act is amended by striking out the terms "Administrator" and "Administrator, ERDA" in each place they appear and substituting "Secretary of Energy" in each such place.

30 USC 1311.

SEC. 605. CONSERVED NATURAL GAS.

15 USC 717x.

(a) GENERAL RULE.—(1) For purposes of determining the natural gas entitlement of any local distribution company under any curtailment plan, if the Commission revises any base period established under such plan, the volumes of natural gas which such local distribution company demonstrates—

(A) were sold by the local distribution company, for a priority use immediately before the implementation of conservation measures, and

(B) were conserved by reason of the implementation of such conservation measures,

shall be treated by the Commission following such revision as continuing to be used for the priority use referred to in subparagraph (A).

(2) The Commission shall, by rule, prescribe methods for measurement of volumes of natural gas to which subparagraphs (A) and (B) of paragraph (1) apply.

(b) CONDITIONS, LIMITATIONS, ETC.—Subsection (a) shall not limit or otherwise affect any provision of any curtailment plan, or any other provision of law or regulation, under which natural gas may be diverted or allocated to respond to emergency situations or to protect public health, safety, and welfare.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "conservation measures" means such energy conservation measures, as determined by the Commission, as were implemented after the base period established under the curtailment plan in effect on the date of the enactment of this Act.

(2) The term "local distribution company" means any person engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(3) The term "curtailment plan" means a plan (including any modification of such plan required by the Natural Gas Policy Act of 1978) in effect under the Natural Gas Act which provides for recognizing and implementing priorities of service during periods of curtailed deliveries.

Post, p. 3350.
15 USC 717w.

SEC. 606. VOLUNTARY CONVERSION OF NATURAL GAS USERS TO HEAVY FUEL OIL.

15 USC 717y.

(a) IN GENERAL.—(1) In order to facilitate voluntary conversion of facilities from the use of natural gas to the use of heavy petroleum fuel oil, the Commission shall, by rule, provide a procedure for the approval by the Commission of any transfer to any person described in paragraph 2(B) (i), (ii), or (iii) of contractual interests involving the receipt of natural gas described in paragraph 2(A).

(2)(A) The rule required under paragraph (1) shall apply to—

(i) natural gas—

(I) received by the user pursuant to a contract entered into before September 1, 1977, not including any renewal or extension thereof entered into on or after such date other than any such extension or renewal pursuant to the exercise by such user of an option to extend or renew such contract;

(II) other than natural gas the sale for resale or the transportation of which was subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as of September 1, 1977; 15 USC 717w.

(III) which was used as a fuel in any facility in existence on September 1, 1977.

(ii) natural gas subject to a prohibition order issued under section 607.

(B) The rule required under paragraph (1) shall permit the transfer of contractual interests—

(i) to any interstate pipeline;

(ii) to any local distribution company served by an interstate pipeline; and

(iii) to any person served by an interstate pipeline for a high priority use by such person.

(3) The rule required under paragraph (1) shall provide that any transfer of contractual interests pursuant to such rule shall be under such terms and conditions as the Commission may prescribe. Such rule shall include a requirement for refund of any consideration, received by the person transferring contractual interests pursuant to such rule, to the extent such consideration exceeds the amount by which the costs actually incurred, during the remainder of the period of the contract with respect to which such contractual interests are transferred, in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility exceeds the price under such contract for natural gas, subject to such contract, delivered during such period.

(4) In prescribing the rule required under paragraph (1), and in determining whether to approve any transfer of contractual interests, the Commission shall consider whether such transfer of contractual interests is likely to increase demand for imported refined petroleum products.

(b) Commission Approval.—(1) No transfer of contractual interests authorized by the rule required under subsection (a)(1) may take effect unless the Commission issues a certificate of public convenience and necessity for such transfer if such natural gas is to be resold by the person to whom such contractual interests are to be transferred. Such certificate shall be issued by the Commission in accordance with the requirements of this subsection and those of section 7 of the Natural Gas Act, and the provisions of such Act applicable to the determination of satisfaction of the public convenience and necessity requirements of such section. 15 USC 717f.

(2) The rule required under subsection (a)(1) shall set forth guidelines for the application on a regional or national basis (as the Commission determines appropriate) of the criteria specified in subsection (e)(2) and (3) to determine the maximum consideration permitted as just compensation under this section.

(c) Restrictions on Transfers Unenforceable.—Any provision of any contract, which provision prohibits any transfer of any contractual interests thereunder, or any commingling or transportation of natural gas subject to such contract with natural gas the sale for resale or transportation of which is subject to the jurisdiction of the Commission under the Natural Gas Act, or terminates such contract on the basis of any such transfer, commingling, or transportation, shall be unenforceable in any court of the United States and in any court of any State if applied with respect to any transfer approved under the rule required under subsection (a)(1).

(d) Contractual Obligations Unaffected.—The person acquiring contractual interests transferred pursuant to the rule required under subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This section shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

(e) Definitions.—For purposes of this section—

(1) The term "natural gas" has the same meaning as provided by section 2(5) of the Natural Gas Act. 15 USC 717a.

(2) The term "just compensation", when used with respect to any contractual interests pursuant to the rule required under subsection (a)(1), means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (not including capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), in direct association with the use of heavy petroleum fuel oil as a fuel in the applicable facility, exceeds

(B) the price under such contract for natural gas, subject to such contract, delivered during such period.

For purposes of subparagraph (A), the reasonable costs directly associated with the use of heavy petroleum fuel oil as a fuel shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises containing such facility, which assets were directly associated with the use of natural gas and are not usable in connection with the use of such heavy petroleum fuel oil.

(3) The term "just compensation", when used with respect to any intrastate pipeline which would have transported or distributed natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), means an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1), to the extent such loss—

(A) is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to the rule required under subsection (a)(1); and

(B) is not offset by—

(i) a reduction in expenses associated with such discontinuation; and

(ii) revenues derived from other transportation or distribution which would not have occurred if such contractual interests had not been transferred.

(4) The term "contractual interests" means the right to receive natural gas under contract as affected by an applicable curtailment plan filed with the Commission or the appropriate State regulatory authority.

(5) The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act.

15 USC 717w.

(6) The term "high-priority use" means any use of natural gas (other than its use for the generation of steam for industrial purposes or electricity) identified by the Commission as a high priority use for which the Commission determines a substitute fuel is not reasonably available.

(7) The term "heavy petroleum fuel oil" means number 4, 5, or 6 fuel oil which is domestically refined.

(8) The term "local distribution company" means any person, other than any intrastate pipeline or any interstate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(9) The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(10) The term "facility" means any electric powerplant, or major fuel burning installation, as such terms are defined in the Powerplant and Industrial Fuel Use Act of 1978.

Post, p. 3289.

(11) The term "curtailment plan" means a plan (including any modification of such plan required by the Natural Gas Policy Act of 1978), in effect under the Natural Gas Act or State law, which provides for recognizing and implementing priorities of service during periods of curtailed deliveries by any local distribution company, intrastate pipeline, or interstate pipeline.

(12) The term "interstate commerce" has the same meaning as such term has under the Natural Gas Act.

15 USC 717w.

(f) Coordination With the Natural Gas Act.—(1) Consideration in any transfer of contractual interests pursuant to the rule required under subsection (a)(1) of this section shall be deemed just and reasonable for purposes of sections 4 and 5 of the Natural Gas Act if such consideration does not exceed just compensation.

15 USC 717c, 717d.

15 USC 717w.

(2) No person shall be subject to the jurisdiction of the Commission under the Natural Gas Act as a natural gas-company (within the meaning of such Act) or to regulation as a common carrier under any provision of Federal or State law solely by reason of making any sale, or engaging in any transportation, of natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1).

(3) Nothing in this section shall exempt from the jurisdiction of the Commission under the Natural Gas Act any transportation in interstate commerce of natural gas, any sale in interstate commerce for resale of natural gas, or any person engaged in such transportation or such sale to the extent such transportation, sale, or person is subject to the jurisdiction of the Commission under such Act without regard to the transfer of contractual interests pursuant to the rule required under subsection (a)(1).

(4) Nothing in this section shall exempt any person from any obligation to obtain a certificate of public convenience and necessity for the sale in interstate commerce for resale or the transportation in interstate commerce of natural gas with respect to which contractual interests are transferred pursuant to the rule required under subsection (a)(1).

(g) Volume Limitation.—No supplier of natural gas under any contract, with respect to which contractual interests have been transferred pursuant to the rule required under subsection (a)(1), shall be required to supply natural gas during any relevant period in volume amounts which exceed the lesser of—

(1) the volume determined by reference to the maximum delivery obligations specified in such contract;

(2) the volume which such supplier would have been required to supply, under the curtailment plan in effect for such supplier, to the person, who transferred contractual interests pursuant to the rule required under subsection (a)(1), if no such transfer had occurred; and

(3) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests.

SEC. 607. EMERGENCY CONVERSION OF UTILITIES AND OTHER FACILITIES.

15 USC 717z.

(a) Presidential Declaration.—The President may declare a natural gas supply emergency (or extend a previously declared emergency) if he finds that—

(1) a severe natural gas shortage, endangering the supply of natural gas for high-priority uses, exists or is imminent in the United States or in any region thereof; and

(2) the exercise of authorities under this section is reasonably necessary, having exhausted other alternatives (not including section 303 of the Natural Gas Policy Act of 1978) to the maximum extent practicable, to assist in meeting natural gas requirements for such high-priority uses.

Post, p. 3383.

(b) Limitation.—(1) Any declaration of a natural gas supply emergency (or extension thereof) under subsection (a), shall terminate at the earlier of—

(A) the date on which the President finds that any shortage described in subsection (a) does not exist or is not imminent; or

(B) 120 days after the date of such declaration of emergency (or extension thereof).

(2) Nothing in this subsection shall prohibit the President from extending, under subsection (a), any emergency (or extension thereof) previously declared under subsection (a), upon the expiration of such declaration of emergency (or extension thereof) under paragraph (1)(B).

(c) Prohibitions.—During a natural gas emergency declared under this section, the President may, by order, prohibit the burning of natural gas by any electric powerplant or major fuel-burning installation if the President determines that—

(1) such powerplant or installation had on September 1, 1977 (or at any time thereafter) the capability to burn petroleum products without damage to its facilities or equipment and without interference with operational requirements;

(2) significant quantities of natural gas which would otherwise be burned by such powerplant or installation could be made available before the termination of such emergency to any person served by an interstate pipeline for use by such person in a high-priority use; and

(3) petroleum products will be available for use by such powerplant or installation throughout the period the order is in effect.

(d) LIMITATIONS.—The President may specify in any order issued under this section the periods of time during which such order will be in effect and the quantity (or rate of use) of natural gas that may be burned by an electric powerplant or major fuel-burning installation during such period, including the burning of natural gas by an electric powerplant to meet peak load requirements. No such order may continue in effect after the termination or expiration of such natural gas supply emergency.

(e) EXEMPTION FOR SECONDARY USES.—The President shall exempt from any order issued under this section the burning of natural gas for the necessary processes of ignition, startup, testing, and flame stabilization by an electric powerplant or major fuel-burning installation.

(f) EXEMPTION FOR AIR-QUALITY EMERGENCIES.—The President shall exempt any electric powerplant or major fuel-burning installation in whole or in part, from any order issued under this section for such period and to such extent as the President determines necessary to alleviate any imminent and substantial endangerment to the health of persons within the meaning of section 303 of the Clean Air Act.

42 USC 1857h-1.

(g) LIMITATION ON INJUNCTIVE RELIEF.—(1) Except as provided in paragraph (2), no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued under this section unless such relief is in connection with a final judgment entered with respect to such order.

(2)(A) On the petition of any person aggrieved by an order issued under this section, the United States District Court for the District of Columbia may, after an opportunity for a hearing before such court and on an appropriate showing, issue a preliminary injunction temporarily enjoining, in whole or in part, the implementation of such order.

(B) For purposes of this paragraph, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States, except that no writ of subpena under the authority of this section shall issue for witnesses outside of the District of Columbia at a greater distance than 100 miles from the place of holding court unless the permission of the District Court for the District of Columbia has been granted after proper application and cause shown.

(h) DEFINITIONS.—For purposes of this section—

(1) The terms "electric powerplant", "powerplant", "major fuel-burning installation", and "installation" shall have the same meanings as such terms have under section 103 of the Powerplant and Industrial Fuel Use Act of 1978.

Post, p. 3292.

(2) The term "petroleum products" means crude oil, or any product derived from crude oil other than propane.

(3) The term "high priority use" means any—

(A) use of natural gas in a residence;

(B) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; or

(C) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

(4) The term "Mcf", when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(i) Use of Certain Terms.—In applying the provisions of this section in the case of natural gas subject to a prohibition order issued under this section, the term "petroleum products" (as defined in subsection (h)(2) of this section) shall be substituted for the term "heavy petroleum fuel oil" (as defined in section 606(e)(7)) if the person subject to any order under this section demonstrates to the Commission that the acquisition and use of heavy petroleum fuel oil is not technically or economically feasible.

SEC. 608. NATURAL GAS TRANSPORTATION POLICIES.

(a) In General.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end thereof the following:

"(2) The Commission may issue a certificate of public convenience and necessity to a natural-gas company for the transportation in interstate commerce of natural gas used by any person for one or more high-priority uses, as defined, by rule, by the Commission, in the case of—

"(A) natural gas sold by the producer to such person; and

"(B) natural gas produced by such person.".

(b) Conforming Amendment.—(1) Subsection (c) of section 7 of the Natural Gas Act (15 U.S.C. 717f(c)) is amended—

(A) by striking out "(c)" and inserting in lieu thereof "(c)(1)(A)", and

(B) by inserting "(B)" immediately before "In all other cases" where such term appears in the second undesignated paragraph of such subsection.

(2) Subsection (e) of section 7 of the Natural Gas Act (15 U.S.C. 717f(d)) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-429 (Comm. on Ways and Means), No. 95-543, Vols. I and II, accompanying H.R. 8444 (ad hoc Comm. on Energy), and No. 95-1750 (Comm. of Conference).

SENATE REPORTS: No. 95-442 accompanying S. 2114 (Comm. on Energy and Natural Resources) and No. 95-1292 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, H.R. 4018 considered and passed House.
Aug. 1-5, H.R. 8444 considered and passed House.
Oct. 5, S. 2114 considered in Senate.
Oct. 6, H.R. 4018 considered and passed Senate, amended, in lieu of S. 2114 and pt. 5 of title I of H.R. 8444.
Oct. 13, House concurred in Senate amendment with an amendment.

Vol. 124 (1978): Oct. 9, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-618
95th Congress

An Act

Nov. 9, 1978
[H.R. 5263]

To provide tax incentives for the production and conservation of energy, and for other purposes.

Energy Tax Act of 1978
Bicycle parts, duty suspension.
19 USC 1202 app.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting ", and parts thereof" immediately after "Generator lighting sets for bicycles"; and

(2) by striking out "12/31/76" and inserting in lieu thereof "6/30/80".

26 USC 1 note.

SECTION 1. SHORT TITLE; ETC.

(a) Short Title.—This Act may be cited as the "Energy Tax Act of 1978".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

(c) Table of Contents.—

Sec. 1. Short title; etc.

TITLE I—RESIDENTIAL ENERGY CREDIT

Sec. 101. Residential energy credit.

TITLE II—TRANSPORTATION

Part I—Gas Guzzler Tax

Sec. 201. Gas guzzler tax.

Part II—Motor Fuels

Sec. 221. Exemption from motor fuels excise taxes for certain alcohol fuels.
Sec. 222. Denial of credit or refund for nonbusiness nonhighway use of gasoline, special motor fuels, and lubricating oil.

Part III—Provisions Related to Buses

Sec. 231. Removal of excise tax on buses.
Sec. 232. Removal of excise tax on bus parts.
Sec. 233. Removal of excise tax on fuel, oil, and tires used in connection with intercity, local, and school buses.

Part IV—Incentives for Van Pooling

Sec. 241. Full investment credit for certain commuter vehicles.
Sec. 242. Exclusion from gross income of value of qualified transportation provided by employer.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

Sec. 301. Changes in business investment credit.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Treatment of intangible drilling costs for purposes of the minimum tax.
Sec. 402. Option to deduct intangible drilling costs in the case of geothermal deposits.
Sec. 403. Depletion for geothermal deposits and natural gas from geopressurized brine.
Sec. 404. Rerefined lubricating oil.

TITLE I—RESIDENTIAL ENERGY CREDIT

SEC. 101. RESIDENTIAL ENERGY CREDIT.

(a) General Rule.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of— 26 USC 44C.

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) Qualified Expenditures.—For purposes of subsection (a)—

"(1) Energy conservation.—In the case of any dwelling unit, the qualified energy conservation expenditures are 15 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) Renewable energy source.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) Prior expenditures by taxpayer on same residence taken into account.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) Minimum dollar amount.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowed with respect to such return is less than $10.

"(5) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43. 26 USC 31, 39, 43.

"(6) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (5) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYOVER TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURES.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) CERTAIN LABOR COSTS INCLUDED.—The term 'renewable energy source expenditure' includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a primary function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system, which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weatherstripping of an exterior door or window,

"(vii) a meter which displays the cost of energy usage, or

"(viii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling, transmits or uses—

"(i) solar energy, energy derived from the geothermal deposits (as defined in section 613(e)(3)), or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

Post, p. 3203.

"(ii) wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) REGULATIONS.—

"(A) CRITERIA; CERTIFICATION PROCEDURES.—The Secretary shall by regulations—

"(i) establish the criteria which are to be used in (I) prescribing performance and quality standards under paragraphs (3), (4), and (5), or (II) specifying any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i), and "(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this section, as insulation, an energy-conserving component, or renewable energy source property.

"(B) Consultation.—Performance and quality standards regulations and other regulations shall be prescribed by the Secretary under paragraphs (3), (4), and (5) and under this paragraph only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal officers.

"(7) When expenditures made; amount of expenditures.—

"(A) In general.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) Renewable energy source expenditures.—In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) Amount.—The amount of any expenditure shall be the cost thereof.

"(D) Allocation in certain cases.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this subparagraph, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) Principal residence.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that— 26 USC 1034.

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) Special Rules.—For purposes of this section—

"(1) Dollar amounts in case of joint occupancy.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) Tenant-stockholder in cooperative housing corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

26 USC 216.

"(3) Condominiums.—

"(A) In general.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) Condominium management association.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

26 USC 528.

"(4) 1977 expenditures allowed for 1978.—

"(A) No credit for taxable years beginning before 1978.—No credit shall be allowed under this section for any taxable year beginning before January 1, 1978.

"(B) 1977 expenditures allowed for 1978.—In the case of the taxpayer's first taxable year beginning after December 31, 1977, this section shall be applied by taking into account the period beginning April 20, 1977, and ending on the last day of such first taxable year.

"(e) Basis Adjustments.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) Termination.—This section shall not apply to expenditures made after December 31, 1985."

(b) Technical and Clerical Amendments.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

26 USC 56.

26 USC 31, 39, 43.

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

26 USC 1016.

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

Ante, p. 3175.

26 USC 6096.

(4) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

26 USC 44C note.

(c) Effective Date.— The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

TITLE II—TRANSPORTATION

PART I—GAS GUZZLER TAX

SEC. 201. GAS GUZZLER TAX.

(a) General Rule.—Part I of subchapter A of chapter 32 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

26 USC 4064.

"SEC. 4064. GAS GUZZLER TAX.

"(a) Imposition of Tax.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following tables:

"(1) In the case of a 1980 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 15	0
At least 14 but less than 15	$200
At least 13 but less than 14	300
Less than 13	550

"(2) In the case of a 1981 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 17	0
At least 16 but less than 17	$200
At least 15 but less than 16	350
At least 14 but less than 15	450
At least 13 but less than 14	550
Less than 13	650

"(3) In the case of a 1982 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 18.5	0
At least 17.5 but less than 18.5	$200
At least 16.5 but less than 17.5	350
At least 15.5 but less than 16.5	450
At least 14.5 but less than 15.5	600
At least 13.5 but less than 14.5	750
At least 12.5 but less than 13.5	950
Less than 12.5	1,200

"(4) In the case of a 1983 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19	0
At least 18 but less than 19	$350
At least 17 but less than 18	500
At least 16 but less than 17	650
At least 15 but less than 16	800
At least 14 but less than 15	1,000
At least 13 but less than 14	1,250
Less than 13	1,550

"(5) In the case of a 1984 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19.5	0
At least 18.5 but less than 19.5	$450
At least 17.5 but less than 18.5	600
At least 16.5 but less than 17.5	750
At least 15.5 but less than 16.5	950
At least 14.5 but less than 15.5	1,150
At least 13.5 but less than 14.5	1,450
At least 12.5 but less than 13.5	1,750
Less than 12.5	2,150

"(6) In the case of a 1985 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 21	0
At least 20 but less than 21	$500
At least 19 but less than 20	600
At least 18 but less than 19	800
At least 17 but less than 18	1,000
At least 16 but less than 17	1,200
At least 15 but less than 16	1,500
At least 14 but less than 15	1,800
At least 13 but less than 14	2,200
Less than 13	2,650

"(7) In the case of a 1986 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	0
At least 21.5 but less than 22.5	$500
At least 20.5 but less than 21.5	650
At least 19.5 but less than 20.5	850
At least 18.5 but less than 19.5	1,050
At least 17.5 but less than 18.5	1,300
At least 16.5 but less than 17.5	1,500
At least 15.5 but less than 16.5	1,850
At least 14.5 but less than 15.5	2,250
At least 13.5 but less than 14.5	2,700
At least 12.5 but less than 13.5	3,200
Less than 12.5	3,850

"(b) DEFINITIONS.—For purposes of this section—

"(1) AUTOMOBILE.—

"(A) IN GENERAL.—The term 'automobile' means any 4-wheeled vehicle propelled by fuel—

"(i) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and

"(ii) which is rated at 6,000 pounds gross vehicle weight or less.

"(B) EXCEPTION FOR CERTAIN VEHICLES.—The term 'automobile' does not include any vehicle which is treated as a nonpassenger automobile under the rules which were prescribed by the Secretary of Transportation for purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on the date of the enactment of this section.

"(C) EXCEPTION FOR EMERGENCY VEHICLES.—The term 'automobile' does not include any vehicle sold for use and used—

"(i) as an ambulance or combination ambulance-hearse,

"(ii) by the United States or by a State or local government for police or other law enforcement purposes, or "(iii) for other emergency uses prescribed by the Secretary by regulations.

"(2) FUEL ECONOMY.—The term 'fuel economy' means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the EPA Administrator in accordance with procedures established under subsection (c).

"(3) MODEL TYPE.—The term 'model type' means a particular class of automobile as determined by regulation by the EPA Administrator.

"(4) MODEL YEAR.—The term 'model year', with reference to any specific calendar year, means a manufacturer's annual production period (as determined by the EPA Administrator) which includes January 1 of such calendar year. If a manufacturer has no annual production period, the term 'model year' means the calendar year.

"(5) MANUFACTURER.—The term 'manufacturer' includes a producer or importer.

"(6) EPA ADMINISTRATOR.—The term 'EPA Administrator' means the Administrator of the Environmental Protection Agency.

"(7) FUEL.—The term 'fuel' means gasoline and diesel fuel. The Secretary (after consultation with the Secretary of Transportation) may, by regulation, include any product of petroleum or natural gas within the meaning of such term if he determines that such inclusion is consistent with the need of the Nation to conserve energy.

"(c) DETERMINATION OF FUEL ECONOMY.—For purposes of this section—

"(1) IN GENERAL.—Fuel economy for any model type shall be measured in accordance with testing and calculation procedures established by the EPA Administrator by regulation. Procedures so established shall be the procedures utilized by the EPA Administrator for model year 1975 (weighted 55 percent urban cycle, and 45 percent highway cycle), or procedures which yield comparable results. Procedures under this subsection, to the extent practicable, shall require that fuel economy tests be conducted in conjunction with emissions tests conducted under section 206 of the Clean Air Act. The EPA Administrator shall report any measurements of fuel economy to the Secretary.

42 USC 7540.

"(2) SPECIAL RULE FOR FUELS OTHER THAN GASOLINE.—The EPA Administrator shall by regulation determine that quantity of any other fuel which is the equivalent of one gallon of gasoline.

"(3) TIME BY WHICH REGULATIONS MUST BE ISSUED.—Testing and calculation procedures applicable to a model year, and any amendment to such procedures (other than a technical or clerical amendment), shall be promulgated not less than 12 months before the model year to which such procedures apply.

"(d) SPECIAL RULES FOR SMALL MANUFACTURERS.—

"(1) IN GENERAL.—If, on the application of a small manufacturer, the Secretary determines that it is not feasible for such manufacturer to meet the tax-free fuel economy level for the model year with respect to all automobiles produced by such manufacturer or with respect to a model type produced by such manufacturer, the Secretary may by regulation prescribe an alternate rate schedule for such model year for all automobiles produced by such manufacturer or for such model type, as the case may be. The alternate rate schedule shall be based on the maximum feasible fuel economy level which such manufacturer can meet for such model year with respect to all automobiles or with respect to such model type, as the case may be.

"(2) APPLICATION TO INCLUDE NECESSARY INFORMATION.—An application under this subsection for any model year shall contain such information as the Secretary may by regulations prescribe.

"(3) DETERMINATIONS TO BE MADE ONLY AFTER CONSULTATION.—Determinations under paragraph (1) shall be made by the Secretary only after consultation with the Secretary of Energy, the Secretary of Transportation, and other appropriate Federal officers.

"(4) SMALL MANUFACTURER DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'small manufacturer' means any manufacturer—

"(i) who manufactured (whether or not in the United States) fewer than 10,000 automobiles in the second model year preceding the model year for which the determination under paragraph (1) is being made, and

"(ii) who can reasonably be expected to manufacture (whether or not in the United States) fewer than 10,000 automobiles in the model year for which the determination under paragraph (1) is being made.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) MANUFACTURER OF AUTOMOBILES PRODUCED ABROAD DETERMINED WITHOUT REGARD TO IMPORTATION.—The meaning of the term 'manufacturer' shall be determined without regard to subsection (b)(5).

"(ii) CONTROLLED GROUPS.—Persons who are members of the same controlled group of corporations shall be treated as one manufacturer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a); except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)." 26 USC 1563.

(b) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: 26 USC 1016.

"(d) REDUCTION IN BASIS OF AUTOMOBILE ON WHICH GAS GUZZLER TAX WAS IMPOSED.—If—

"(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064, and *Ante*, p. 3180.

"(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence."

(c) DENIAL OF CERTAIN EXEMPTIONS AND REFUNDS.—

(1) TAX-FREE SALES.—Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: 26 USC 4221.

"Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064."

Ante, p. 3180.
26 USC 4293.

(2) United states and possessions.—Section 4293 (relating to exemption for United States and possessions) is amended by striking out "tax imposed by section 4121" and inserting in lieu thereof "taxes imposed by sections 4064 and 4121".

26 USC 6416.

(3) Denial of refunds for certain uses.—Paragraph (2) of section 6416(b) (relating to tax payments considered overpayments in the case of specified uses and resales) is amended by adding at the end thereof the following new sentence: "Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064".

26 USC 4217.

(d) Payment of Tax in Case of Leased Automobiles.—Section 4217 (relating to leases) is amended by adding at the end thereof the following new subsection:

"(e) Leases of Automobiles Subject to Gas Guzzler Tax.—

(1) In general.—In the case of the lease of an automobile the sale of which by the manufacturer would be taxable under section 4064, the foregoing provisions of this section shall not apply, but, for purposes of this chapter—

"(A) the first lease of such automobile by the manufacturer shall be considered to be a sale, and

"(B) any lease of such automobile by the manufacturer after the first lease of such automobile shall not be considered to be a sale.

"(2) Payment of tax.—In the case of a lease described in paragraph (1)(A)—

"(A) there shall be paid by the manufacturer on each lease payment that portion of the total gas guzzler tax which bears the same ratio to such total gas guzzler tax as such payment bears to the total amount to be paid under such lease,

"(B) if such lease is canceled, or the automobile is sold or otherwise disposed of, before the total gas guzzler tax is payable, there shall be paid by the manufacturer on such cancellation, sale, or disposition the difference between the tax imposed under subparagraph (A) on the lease payments and the total gas guzzler tax, and

"(C) if the automobile is sold or otherwise disposed of after the total gas guzzler tax is payable, no tax shall be imposed under section 4064 on such sale or disposition.

"(3) Definitions.—For purposes of this subsection—

"(A) Manufacturer.—The term 'manufacturer' includes a producer or importer.

Ante, p. 3180.

"(B) Total gas guzzler tax.—The term 'total gas guzzler tax' means the tax imposed by section 4064, computed at the rate in effect on the date of the first lease."

26 USC 4222.

(e) Authority to Extend Registration System to Exemption of Emergency Vehicles.—Subsection (d) of section 4222 (relating to registration in the case of certain other exemptions) is amended by inserting "4064(b)(1)(C)," after "4063(b),".

(f) Clerical Amendment.—The table of sections for part I of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4064. Gas guzzler tax."

26 USC 4064 note.
26 USC 4064.

(g) Effective Date.—The amendments made by this section shall apply with respect to 1980 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1954).

PART II—MOTOR FUELS

SEC. 221. EXEMPTION FROM MOTOR FUELS EXCISE TAXES FOR CERTAIN ALCOHOL FUELS.

(a) Gasoline Mixed With Alcohol.—

(1) In general.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

26 USC 4081.

"(c) Gasoline Mixed With Alcohol.—

"(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) Later separation of gasoline.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) Alcohol defined.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal."

(2) Effective date.—The amendment made by paragraph (1) shall apply to sales after December 31, 1978, and before October 1, 1984.

26 USC 4081 note.

(b) Alcohol Mixed With Special Fuel.—

(1) In general.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

26 USC 4041.

"(k) Fuels Containing Alcohol.—

"(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) Later separation.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel."

(2) Effective date.—The amendment made by paragraph (1) shall apply to sales or use after December 31, 1978, and before October 1, 1984.

26 USC 4041 note.

(c) Reports.—

26 USC 4041 note.
Report to Congress.

(1) Annual report.—On April 1 of each year, beginning with April 1, 1980, and ending on April 1, 1984, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954, and

26 USC 4041, 4081.

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

Report to Congress.

(2) REPORT.—The report submitted to the Congress on April 1, 1984, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

26 USC 4041, 4081.

26 USC 4081 note.

(d) EXPEDITION OF CERTAIN ETHANOL PRODUCTION APPLICATIONS.—The Secretary of the Treasury shall expedite, to the maximum extent possible, action on the application of any person with respect to the production of ethanol for use in producing gasoline described in section 4081(c) (or in producing liquid fuel described in section 4041(k)) of the Internal Revenue Code of 1954. Within 6 months after the date of the enactment of this Act, the Secretary shall furnish to the Committee on Finance, United States Senate, and to the Committee on Ways and Means, United States House of Representatives, recommendations for legislation necessary to provide for changes in the provisions of chapter 51 of the Internal Revenue Code of 1954 to provide a simple, expeditious procedure for processing such applications and to simplify the regulation of such persons for purposes of such chapter consistent with adequate safeguards against the use of such applications to avoid or evade compliance with the provisions of such chapter relating to distilled spirits procured, dealt in, or used for other purposes.

Legislative recommendations to congressional committees.

26 USC 5001 *et seq.*

SEC. 222. DENIAL OF CREDIT OR REFUND FOR NONBUSINESS NONHIGHWAY USE OF GASOLINE, SPECIAL MOTOR FUELS, AND LUBRICATING OIL.

(a) IN GENERAL.—

(1) GASOLINE.—

26 USC 6421.

(A) So much of the first sentence of section 6421(a) (relating to nonhighway uses) as precedes "the Secretary" is amended to read as follows: "Except as provided in subsection (i), if gasoline is used in a qualified business use,".

(B) Subsection (d) of section 6421 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED BUSINESS USE.—

26 USC 212.

"(A) IN GENERAL.—The term 'qualified business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(i) which (at the time of such use), is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(B) EXCEPTION FOR USE IN MOTORBOATS.—The term 'qualified business use' does not include any use in a motorboat.

"(C) COMMERCIAL FISHING VESSELS.—For provisions exempting from tax gasoline, special motor fuels, and lubricating oil used for commercial fishing vessels, see—

26 USC 4221.

"(i) subsections (a)(3) and (d)(3) of section 4221 (relating to certain tax-free sales), "(ii) section 6416(b)(2)(B) (relating to refund or credit in case of certain uses), and

26 USC 6416.

"(iii) section 4041(g)(1) (relating to exemptions from tax on special fuels)."

26 USC 4041.

(2) SPECIAL MOTOR FUELS.—Subsection (b) of section 4041 (relating to special motor fuels) is amended by striking out the second and third sentences and inserting in lieu thereof the following:

"In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under paragraph (2). For purposes of this subsection, the term 'qualified business use' has the meaning given to such term by section 6421(d)(3)."

26 USC 6421.

(3) LUBRICATING OIL.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out "is used otherwise than in a highway motor vehicle" and inserting in lieu thereof "is used in a qualified business use (within the meaning of section 6421(d)(3))".

26 USC 6424.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to uses after December 31, 1978.

26 USC 4041 note.

PART III—PROVISIONS RELATED TO BUSES

SEC. 231. REMOVAL OF EXCISE TAX ON BUSES.

(a) GENERAL RULE.—Paragraph (6) of section 4063(a) (relating to exemption for local transit buses) is amended to read as follows:

26 USC 4063.

"(6) BUSES.—The tax imposed under section 4061(a) shall not apply in the case of any automobile bus chassis or automobile bus body."

26 USC 4061.

(b) FLOOR STOCKS REFUNDS.—

26 USC 4063 note.

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the dealer who held the article in respect of which the credit or refunds is claimed; and

(B) on or before the first day of such 10th calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such

evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

26 USC 4061.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where on or after April 20, 1977, and on or before the date of the enactment of this Act, a tax-repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury under this subsection;

(B) claim for such credit or refund is filed with the Secretary of the Treasury before the first day of the 10th calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the 7th calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such 10th calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the taxes imposed by section 4061(a) of such Code shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply with respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayment of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax paid by reason of section 4218(a) of such Code (relating to use by manufacturer or importer considered sale) on any tax-repealed article shall be deemed an overpayment of such tax if the tax was imposed on such article by reason of such section 4218(a) on or after April 20, 1977.

26 USC 4218.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if, for purposes of consumption, title to

such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed by section 4061(a) of such Code (as in effect on the day before the date of the enactment of this Act) and which is exempted from such tax by paragraph (6) of section 4063(a) of such Code (as amended by subsection (a) of this section). 26 USC 4061. 26 USC 4063.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The heading for paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended by striking out "AND BUSES". 26 USC 6412.

(2) Subsection (d) of section 4222 (relating to registration in case of certain other exemptions) is amended by striking out "4063(a) (6) or (7)" and inserting in lieu thereof "4063(a)(7)". 26 USC 4222.

(g) EFFECTIVE DATE.— 26 USC 4063 note.

(1) The amendments made by subsections (a) and (f) shall apply with respect to articles sold after the date of the enactment of this Act.

(2) For purposes of paragraph (1), an article shall not be considered sold on or before the date of the enactment of this Act unless possession or right to possession passes to the purchaser on or before such date.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments,

entered into on or before the date of the enactment of this Act, payments made after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold on or before the date of the enactment of this Act.

SEC. 232. REMOVAL OF EXCISE TAX ON BUS PARTS.

(a) EXEMPT SALES.—Subsection (e) of section 4221 (relating to special rules for certain tax-free sales) is amended by adding at the end thereof the following new paragraph: 26 USC 4221.

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus."

(b) REFUND FOR CERTAIN SALES OF BUS PARTS.—Subparagraph (I) of section 6416(b)(2) (relating to refund for specified uses and resales) is amended to read as follows: 26 USC 6416.

"(I) in the case of any article taxable under section 4061 (b), sold for use by the purchaser on or in connection with an automobile bus;".

26 USC 4221 note.

(c) Effective Date.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act.

SEC. 233. REMOVAL OF EXCISE TAX ON FUEL, OIL, AND TIRES USED IN CONNECTION WITH INTERCITY, LOCAL, AND SCHOOL BUSES.

(a) Repayment of Tax on Gasoline and Other Motor Fuels Used by Intercity, Local, or School Buses.—

26 USC 6421.

(1) Gasoline.—Subsection (b) of section 6421 (relating to local transit systems) is amended to read as follows:

"(b) Intercity, Local, or School Buses.—

"(1) Allowance.—Except as provided in paragraph (2) and subsection (i), if gasoline is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

26 USC 4221.

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

26 USC 4081.

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) Limitation in case of nonscheduled intercity or local buses.—Paragraph (1)(A) shall not apply in respect of gasoline used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

26 USC 6427.

(2) Other fuels.—Subsection (b) of section 6427 (relating to local transit systems) is amended to read as follows:

"(b) Intercity, Local, or School Buses.—

26 USC 4041.

"(1) Allowance.—Except as provided in paragraph (2) and subsection (g), if any fuel on the sale of which tax was imposed by subsection (a) or (b) of section 4041 is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by subsection (a) or (b) of section 4041.

"(2) Limitation in case of nonscheduled intercity or local buses.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not scheduled and not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver)."

(3) Technical amendments.—

26 USC 6421.

(A) Subsection (d) of section 6421 is amended—

(i) by striking out paragraph (2), and

Ante, p. 3186.

(ii) by redesignating paragraph (3) (as added by section 222(a)(1)(B)) as paragraph (2).

(B) The last sentence of section 4041(b) (as added by section 222(a)(2)) is amended by striking out "6421(d)(3)" and inserting in lieu thereof "6421(d)(2)". 26 USC 4041.

(C) Subsection (c) of section 4483 is amended by inserting "(as in effect on the day before the date of the enactment of the Energy Tax Act of 1978)" after "section 6421(b)(2)". 26 USC 4483.

(b) Repayment of Tax on Lubricating Oil Used in Intercity, Local, or School Buses.—

(1) In general.—Subsection (a) of section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended to read as follows: 26 USC 6424.

"(a) Payments.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used— 26 USC 4092.

(1) in a qualified business use (as defined in section 6421(d)(2)), or 26 USC 6421.

"(2) in a qualified bus (as defined in section 4221(d)(7)), 26 USC 4221.

the Secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used."

(2) Technical and conforming amendments.—

(A) The section heading for section 6424 is amended by striking out "NOT USED IN HIGHWAY MOTOR VEHICLES" and inserting in lieu thereof "USED FOR CERTAIN NONTAXABLE PURPOSES". 26 USC 6424.

(B) The table of sections for subchapter B of chapter 65 (relating to rules of special application) is amended by striking out "not used in highway motor vehicles" in the item relating to section 6424 and inserting in lieu thereof "used for certain nontaxable purposes". 26 USC 6411.

(C) Paragraph (3) of section 39(a) (relating to certain uses of gasoline, special fuels, and lubricating oil) is amended by striking out "otherwise than in a highway motor vehicle" and inserting in lieu thereof "for certain nontaxable purposes". 26 USC 39.

(D) Sections 6504(9) and 6675(a) are each amended by striking out "not used in highway motor vehicles" and inserting in lieu thereof "used for certain nontaxable purposes". 26 USC 6504, 6675.

(E) Paragraph (3) of section 209(f) of the Highway Revenue Act of 1956 is amended by striking out "lubricating oil not used in highway motor vehicles" and inserting in lieu thereof "lubricating oil used for certain nontaxable purposes". 23 USC 120 note.

(c) Tires, Tubes, and Tread Rubber.—

(1) In general.—Paragraph (5) of section 4221(e) (relating to school buses) is amended to read as follows: 26 USC 4221.

"(5) Tires, tubes, and tread rubber used on intercity, local, and school buses.—Under regulations prescribed by the Secretary—

"(A) the taxes imposed by paragraphs (1) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and 26 USC 4071.

"(B) the tax imposed by paragraph (4) of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus."

26 USC 4221.

(2) Qualified bus defined.—Subsection (d) of section 4221 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(7) Qualified bus.—

"(A) In general.—The term 'qualified bus' means—

"(i) an intercity or local bus, and

"(ii) a school bus.

"(B) Intercity or local bus.—The term 'intercity or local bus' means any automobile bus which is used predominantly in furnishing (for compensation) passenger land transportation available to the general public if—

"(i) such transportation is scheduled and along regular routes, or

"(ii) the seating capacity of such bus is at least 20 adults (not including the driver).

"(C) School bus.—The term 'school bus' means any automobile bus substantially all the use of which is in transporting students and employees of schools. For purposes of the preceding sentence, the term 'school' means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on."

26 USC 6416.

(3) Technical amendment.—Paragraph (2) of section 6416 (b) (relating to specified uses and resales) is amended by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and by inserting after subparagraph (K) the following new subparagraphs:

26 USC 4071.

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A); or

"(M) in the case of tread rubber taxable under paragraph (4) of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7))."

26 USC 39 note.

(d) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

PART IV—INCENTIVES FOR VAN POOLING

SEC. 241. FULL INVESTMENT CREDIT FOR CERTAIN COMMUTER VEHICLES.

26 USC 46.

(a) In General.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(6) Special rule for commuter highway vehicles.—

"(A) In general.—Notwithstanding paragraph (2), in the case of a commuter highway vehicle the useful life of which is 3 years or more, the applicable percentage for purposes of paragraph (1) shall be 100 percent.

"(B) Definition of commuter highway vehicle.—For purposes of subparagraph (A), the term 'commuter highway vehicle' means a highway vehicle—

"(i) the seating capacity of which is at least 8 adults (not including the driver),

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver),

"(iii) which is acquired by the taxpayer on or after the date of the enactment of the Energy Tax Act of 1978, and placed in service by the taxpayer before January 1, 1986, and *Ante*, p. 3174.

"(iv) with respect to which the taxpayer makes an election under this paragraph on his return for the taxable year in which such vehicle is placed in service."

(b) AMENDMENTS OF THE RECAPTURE RULES.—

(1) Subsection (a) of section 47 (relating to recapture in case of certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph: 26 USC 47.

"(4) SPECIAL RULES FOR COMMUTER HIGHWAY VEHICLES.—

"(A) USEFUL LIFE.—For purposes of this subsection, 3 years shall be treated as the useful life which was taken into account in computing the credit under section 38 with respect to any commuter highway vehicle (as defined in section 46 (c)(6)(B)). 26 USC 38. *Ante*, p. 3192.

"(B) CHANGE IN USE.—If less than 80 percent of the mileage use of any commuter highway vehicle by the taxpayer during that portion of any taxable year which is within the first 36 months of the operation of such vehicle by the taxpayer meets the requirements of section 46(c)(6)(B), then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from treating such vehicle, for purposes of determining qualified investment, as not being a commuter highway vehicle. If the application of this subparagraph to any property is followed by the application of paragraph (1) to such property, proper adjustment shall be made in applying paragraph (1)."

(2) Paragraph (5) of section 47(a) (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (4)".

(3) Subparagraph (B) of section 47(a)(6) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

SEC. 242. EXCLUSION FROM GROSS INCOME OF VALUE OF QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and by inserting after section 123 the following new section: 26 USC 101. 26 USC 124, 125.

"SEC. 124. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER. 26 USC 124.

"(a) GENERAL RULE.—Gross income of an employee does not include the value of qualified transportation provided by the employer between the employee's residence and place of employment.

"(b) QUALIFIED TRANSPORTATION.—For purposes of this section, the term 'qualified transportation' means transportation in a commuter highway vehicle (as defined in section 46(c)(6)(B) but without regard to clause (iii) or (iv) thereof).

Ante, p. 3192.

"(c) ADDITIONAL REQUIREMENTS.—Subsection (a) does not apply to the value of transportation provided by an employer unless—

"(1) such transportation is provided under a separate written plan of the employer which does not discriminate in favor of employees who are officers, shareholders, or highly compensated employees, and

"(2) the plan provides that the value of such transportation is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(d) DEFINITIONS.—For purposes of this section—

"(1) PROVIDED BY THE EMPLOYER.—Transportation shall be considered to be provided by an employer if the transportation is furnished in a commuter highway vehicle (described in subsection (b)) operated by or for the employer.

"(2) EMPLOYEE.—The term 'employee' does not include an individual who is an employee (within the meaning of section 401(c)(1)).

26 USC 401.

"(e) EFFECTIVE DATE.—Subsection (a) applies with respect to qualified transportation provided in taxable years beginning after December 31, 1978, and before January 1, 1986".

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Qualified transportation provided by employer.
"Sec. 125. Cross references to other Acts."

26 USC 124 note.
Supra.

(c) TRANSITION RULE.—The plan requirements of section 124(c) of the Internal Revenue Code of 1954 shall be considered to be met with respect to transportation provided before July 1, 1979, if there is a plan meeting such requirements of the employer in effect on that date.

TITLE III—CHANGES IN BUSINESS INVESTMENT CREDIT TO ENCOURAGE CONSERVATION OF, OR CONVERSION FROM, OIL AND GAS OR TO ENCOURAGE NEW ENERGY TECHNOLOGY

SEC. 301. CHANGES IN BUSINESS INVESTMENT CREDIT.

(a) AMOUNT OF CREDIT; ALLOWANCE OF ENERGY PERCENTAGE.—

26 USC 46.

(1) IN GENERAL.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended to read as follows:

"(2) AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit determined under this paragraph for the taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(i) the regular percentage,

"(ii) in the case of energy property, the energy percentage, and

"(iii) the ESOP percentage.

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is—

"(i) 10 percent with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, or

"(ii) 7 percent with respect to the period beginning on January 1, 1981.

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on December 31, 1982, or

"(ii) zero with respect to any other period.

"(D) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. *Infra.* 26 USC 38.

"(E) ESOP PERCENTAGE.—For purposes of this paragraph, the ESOP percentage is—

"(i) with respect to the period beginning on January 21, 1975, and ending on December 31, 1980, 1 percent, and

"(ii) with respect to the period beginning on January 1, 1977, and ending on December 31, 1980, an additional percentage (not in excess of ½ of 1 percent) which results in an amount equal to the amount determined under section 301(e) of the Tax Reduction Act of 1975. 26 USC 46 note.

This subparagraph shall apply to a corporation only if it meets the requirements of section 301(d) of the Tax Reduction Act of 1975 and only if it elects (at such time, in such form, and in such manner as the Secretary prescribes) to have this subparagraph apply." 26 USC 46 note.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended to read as follows: 26 USC 46.

"(A) For the period beginning on January 1, 1981, in the case of any property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1). The preceding sentence shall not apply for purposes of applying the energy percentage."

(B) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Tax Reform Act of 1976" and inserting in lieu thereof ", the Tax Reform Act of 1976, and the Energy Tax Act of 1978". 26 USC 1 note. *Ante*, p. 3174.

(b) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (n) and by inserting after subsection (k) the following new subsections: 26 USC 48.

"(l) ENERGY PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning on October 1, 1978, and ending on December 31, 1982—

"(A) any energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to any energy property.

"(2) Energy property defined.—The term 'energy property' means property—

"(A) which is—

"(i) alternative energy property,

"(ii) solar wind energy property,

"(iii) specially defined energy property,

"(iv) recycling equipment,

"(v) shale oil equipment, or

"(vi) equipment for producing natural gas from geopressured brine,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after September 30, 1978, or

"(ii) which is acquired after September 30, 1978, if the original use of such property commences with the taxpayer and commences after such date, and

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years or more.

"(3) Alternative energy property.—

"(A) In general.—The term 'alternative energy property' means—

"(i) a boiler the primary fuel for which will be an alternate substance,

"(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

"(iii) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel (other than coke or coke gas),

"(iv) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock so that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

"(v) equipment which uses coal (including lignite) as a feedstock for the manufacture of chemicals or other products (other than coke or coke gas),

"(vi) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iii), (iv), or (v),

"(vii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii), (iii), (iv), (v), or (vi), and

"(viii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(3)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

Post, p. 3203.

"(B) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'solar or wind energy property', and 'recycling equipment' do not include property which is public utility property (within the meaning of section 46(f)(5)).

26 USC 46.

"(C) ALTERNATE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(i) oil and natural gas, and

"(ii) any product of oil and natural gas.

"(D) SPECIAL RULE FOR CERTAIN POLLUTION CONTROL EQUIPMENT.—The term 'pollution control equipment' does not include any equipment which—

"(i) is installed on or in connection with property which, as of October 1, 1978, was using coal (including lignite), and

"(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

"(4) SOLAR OR WIND ENERGY PROPERTY.—The term 'solar or wind energy property' means any equipment which uses solar or wind energy—

"(A) to generate electricity, or

"(B) to heat or cool (or provide hot water for use in) a structure.

"(5) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(A) a recuperator,

"(B) a heat wheel,

"(C) a regenerator,

"(D) a heat exchanger,

"(E) a waste heat boiler,

"(F) a heat pipe,

"(G) an automatic energy control system,

"(H) a turbulator,

"(I) a preheater,

"(J) a combustible gas recovery system,

"(K) an economizer, or

"(L) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(6) RECYCLING EQUIPMENT.—

"(A) IN GENERAL.—The term 'recycling equipment' means any equipment which is used exclusively—

"(i) to sort and prepare solid waste for recycling, or

"(ii) in the recycling of solid waste.

"(B) CERTAIN EQUIPMENT NOT INCLUDED.—The term 'recycling equipment' does not include—

"(i) any equipment used in a process after the first marketable product is produced, or

"(ii) in the case of recycling iron or steel, any equipment used to reduce the waste to a molten state and in any process thereafter.

"(C) 10 PERCENT VIRGIN MATERIAL ALLOWED.—Any equipment used in the recycling of material which includes some virgin materials shall not be treated as failing to meet the exclusive use requirements of subparagraph (A) if the amount of such virgin materials is 10 percent or less.

"(D) CERTAIN EQUIPMENT INCLUDED.—The term 'recycling equipment' includes any equipment which is used in the conversion of solid waste into a fuel or into useful energy such as steam, electricity, or hot water.

"(7) SHALE OIL EQUIPMENT.—The term 'shale oil equipment' means equipment for producing or extracting oil from oil-bearing shale rock but does not include equipment for hydrogenation, refining, or other process subsequent to retorting.

"(8) EQUIPMENT FOR PRODUCING NATURAL GAS FROM GEOPRESSURED BRINE.—The term 'equipment for producing natural gas from geopressured brine' means equipment which is used exclusively to extract natural gas described in section 613A(b)(3)(C)(i).

26 USC 613A.

"(9) EQUIPMENT MUST MEET CERTAIN STANDARDS TO QUALIFY.—Equipment qualifies under paragraph (3), (4), (5), (6), (7), or (8) only if it meets the performance and quality standards (if any) which—

"(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(B) are in effect at the time of the acquisition of the property.

"(10) EXISTING.—For purposes of this subsection, the term 'existing' means—

"(A) when used in connection with a facility, 50 percent or more of the basis of such facility is attributable to construction, reconstruction, or erection before October 1, 1978, or

"(B) when used in connection with an industrial or commercial process, such process was carried on in the facility as of October 1, 1978.

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the energy percentage shall be 5 percent.

26 USC 103.

"(12) INDUSTRIAL INCLUDES AGRICULTURAL.—The term 'industrial' includes agricultural.

"(m) APPLICATION OF CERTAIN TRANSITIONAL RULES.—Where the application of any provision of subsection (l) of this section or subsection (a)(2) or (c)(3) of section 46 is expressed in terms of a period, such provision shall apply only to—

Ante, p. 3194; 26 USC 46.

"(1) property to which section 46(d) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer on or after the first day of such period, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection during such period,

"(2) property to which section 46(d) does not apply, acquired by the taxpayer during such period and placed in service by the taxpayer during such period, and

"(3) property to which section 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46) with respect to qualified progress expenditures made during such period." 26 USC 46.

(c) Special Rules for Applying Limitation Based on Tax Liability—

(1) Subsection (a) of section 46 is amended by adding at the end thereof the following new paragraph:

"(10) Special rules in the case of energy property.—Under regulations prescribed by the Secretary— Regulations.

"(A) In general.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage, 26 USC 38.

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property (other than solar or wind energy property), and

"(iii) then with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to solar or wind energy property.

"(B) Rules of application for energy property other than solar or wind energy property.—In applying this subsection and subsection (b) for taxable years ending after September 30, 1978, with respect to so much of the credit allowed by section 38 as is described in subparagraph (A) (ii)—

"(i) paragraph (3)(C) shall be applied by substituting '100 percent' for '50 percent',

"(ii) paragraphs (7), (8), and (9) shall not apply, and

"(iii) the liability for tax shall be the amount determined under paragraph (4) reduced by so much of the credit allowed by section 38 as is described in subparagraph (A)(i).

"(C) Refundable credit for solar or wind energy property.—In the case of so much of the credit allowed by section 38 as is described in subparagraph (A)(iii)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38." 26 USC 31, 6201. 26 USC 39.

(2) Section 6401 (relating to amounts treated as overpayments) is amended by adding at the end thereof the following new subsection: 26 USC 6401.

"(d) Cross Reference.—

"For rule allowing refund for excess investment credit attributable to solar or wind energy property, see section 46(a)(10)(C)."

(d) Denial of Investment Tax Credit for Certain Property.—

(1) Air conditioning, space heaters, etc.—Subparagraph (A) of section 48(a)(1) (defining section 38 property) is amended to read as follows: 26 USC 48.

"(A) tangible personal property (other than an air conditioning or heating unit), or".

26 USC 48.

(2) Boilers fueled by oil or gas.—Subsection (a) of section 48 (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) Boilers fueled by oil or gas.—

"(A) In general.—The term 'section 38 property' does not include any boiler primarily fueled by petroleum or petroleum products (including natural gas) unless the use of coal is precluded by Federal air pollution regulations (or by State air pollution regulations in effect on October 1, 1978) or unless the use of such boiler will be an exempt use within the meaning of subparagraph (B).

"(B) Exempt use defined.—For purposes of subparagraph (A), the term 'exempt use' means—

"(i) use in an apartment, hotel, motel, or other residential facility,

"(ii) use in a vehicle, aircraft, or vessel, or in transportation by pipeline,

26 USC 6420.

"(iii) use on a farm for farming purposes (within the meaning of section 6420(c)),

"(iv) use in—

"(I) a shopping center,

"(II) an office building,

"(III) a wholesale or retail establishment,

"(IV) any other facility which is not an integral part of manufacturing, processing, or mining, or

"(V) any facility for the production of electric power having a heat rate of less than 9,500 Btu's per kilowatt hour and which is capable of converting to synthetic fuels (as certified by the Secretary),

"(v) use in the exploration for, or the development, extraction, transmission, or storage of, crude oil, natural gas, or natural gas liquids, and

"(vi) use in Hawaii.

Except as provided in clauses (iv) (V) and (vi) of the preceding sentence, the term 'exempt use' does not include use of a boiler which is public utility property (within the meaning of section 46(f)(5))."

26 USC 46.

26 USC 167.

(3) Denial of rapid depreciation for boilers fueled by oil or gas.—Section 167 (relating to depreciation) is amended by redesignating subsection (p) as subsection (r) and by inserting after subsection (o) the following new subsection:

26 USC 48.

"(p) Straight Line Method for Boilers Fueled by Oil or Gas.—In the case of any boiler which, by reason of section 48(a)(10), is not section 38 property—

"(1) subsections (b), (j), and (l) shall not apply, and

"(2) the term 'reasonable allowance' as used in subsection (a) shall mean only an allowance computed under the straight line method using a useful life equal to the class life prescribed by the Secretary under subsection (m) which is applicable to such property (determined without regard to the last sentence of subsection (m)(1))."

26 USC 48 note.

(4) Effective date.—

(A) In general.—The amendments made by this subsection shall apply to property which is placed in service after September 30, 1978.

(B) Binding contracts.—The amendments made by this subsection shall not apply to property which is constructed, reconstructed, erected, or acquired pursuant to a contract which, on October 1, 1978, and at all times thereafter, was binding on the taxpayer.

(e) Depreciation Allowance in Case of Retirement or Replacement of Certain Oil and Gas Boilers, Etc.—

(1) In general.—Section 167 is amended by inserting after subsection (p) the following new subsection:

26 USC 167.

"(q) Retirement or Replacement of Certain Boilers, Etc., Fueled by Oil or Gas.—

"(1) In general.—If—

"(A) a boiler or other combustor was in use on October 1, 1978, and as of such date the principal fuel for such combustor was petroleum or petroleum products (including natural gas), and

"(B) the taxpayer establishes to the satisfaction of the Secretary that such combustor will be retired or replaced on or before the date specified by the taxpayer,

then for the period beginning with the taxable year in which subparagraph (B) is satisfied, the term 'reasonable allowance' as used in subsection (a) includes an allowance under the straight line method using a useful life equal to the period ending with the date established under subparagraph (B).

"(2) Interest.—If the retirement or replacement of any combustor does not occur on or before the date referred to in paragraph (1)(B)—

"(A) this subsection shall cease to apply with respect to such combustor as of such date, and

"(B) interest at the rate determined under section 6621 on the amount of the tax benefit arising from the application of this subsection with respect to such combustor shall be due and payable for the period during which such tax benefit was available to the taxpayer and ending on the date referred to in paragraph (1)(B)."

26 USC 6621.

(2) Effective date.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

26 USC 167 note.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before January 1, 1978".

26 USC 57 note.

SEC. 402. OPTION TO DEDUCT INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL DEPOSITS.

(a) In General.—Subsection (c) of section 263 (relating to intangible drilling and and development costs in the case of oil and gas wells) is amended—

26 USC 263.

(1) by adding at the end thereof the following new sentence: "Such regulations shall also grant the option to deduct as expenses intangible drilling and development costs in the case of wells drilled for any geothermal deposit (as defined in section 613(e)

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(3)) to the same extent and in the same manner as such expenses are deductible in the case of oil and gas wells.", and

(2) by amending the subsection heading to read as follows:

"(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS AND GEOTHERMAL WELLS.—".

(b) MINIMUM TAX ON INTANGIBLE DRILLING COSTS IN THE CASE OF GEOTHERMAL WELLS.—

26 USC 57.

(1) Paragraph (11) of section 57(a) (relating to intangible drilling costs) is amended by striking out "oil and gas properties" each place it appears (including in the heading of subparagraph (C)) and inserting in lieu thereof "oil, gas, and geothermal properties".

(2) Clause (i) of section 57(a)(11)(B) is amended by striking out "oil and gas wells" and inserting in lieu thereof "oil, gas, and geothermal wells".

(3) Paragraph (11) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3))."

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(c) GAIN FROM DISPOSITION OF INTERESTS IN GEOTHERMAL WELLS.—

26 USC 1254.

(1) Paragraphs (1) and (2) of section 1254(a) (relating to gain from disposition of interest in oil or gas property) are each amended by striking out "oil or gas property" each place it appears and inserting in lieu thereof "oil, gas, or geothermal property".

(2) Paragraph (3) of section 1254(a) (defining oil or gas property) is amended to read as follows:

"(3) OIL, GAS, OR GEOTHERMAL PROPERTY.—The term 'oil, gas, or geothermal property' means any property (within the meaning of section 614) with respect to which any expenditures described in paragraph (1)(A) are properly chargeable."

26 USC 614.

(3) The section heading of section 1254 is amended by striking out "OIL OR GAS" and inserting in lieu thereof "OIL, GAS, OR GEOTHERMAL".

(4) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "oil or gas" in the item relating to section 1254 and inserting in lieu thereof "oil, gas, or geothermal".

26 USC 1231.

26 USC 751.

(5) Subsection (c) of section 751 (relating to unrealized receivables) is amended by striking out "oil and gas property" and inserting in lieu thereof "oil, gas, or geothermal property".

(d) APPLICATION OF AT RISK RULES TO GEOTHERMAL DEPOSITS.—

26 USC 465.

(1) Paragraph (1) of section 465(c) (defining activities to which at risk rules apply) is amended by striking out "or" at the end of subparagraph (C), by adding ", or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) exploring for, or exploiting, geothermal deposits (as defined in section 613(e)(3))".

(2) Paragraph (2) of section 465(c) is amended by striking out "or" at the end of subparagraph (C), by adding "or" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) geothermal property (as determined under section 614)",.

26 USC 614.

(c) Effective Date.—

26 USC 263 note.

(1) In general.—The amendments made by this section shall apply with respect to wells commenced on or after October 1, 1978, in taxable years ending on or after such date.

(2) Election.—The taxpayer may elect to capitalize or deduct any costs to which section 263(c) of the Internal Revenue Code of 1954 applies by reason of the amendments made by this section. Any such election shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by chapter 1 of such Code with respect to the taxpayer's first taxable year to which the amendments made by this section apply and for which he pays or incurs costs to which such section 263(c) applies by reason of the amendments made by this section. Any election under this paragraph may be changed or revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time such election may not be changed or revoked.

26 USC 263.

SEC. 403. DEPLETION FOR GEOTHERMAL DEPOSITS AND NATURAL GAS FROM GEOPRESSURED BRINE.

(a) Geothermal Deposits.—

(1) In general.—Section 613 (relating to percentage depletion) is amended by adding at the end thereof the following new subsection:

26 USC 613.

"(e) Percentage Depletion for Geothermal Deposits.—

"(1) In general.—In the case of geothermal deposits located in the United States or in a possession of the United States, for purposes of subsection (a)—

"(A) such deposits shall be treated as listed in subsection (b), and

"(B) the applicable percentage (determined under the table contained in paragraph (2)) shall be deemed to be the percentage specified in subsection (b).

"(2) Applicable percentage.—For purposes of paragraph (1)—

"In the case of taxable years beginning in calendar year—	The applicable percentage is—
1978, 1979, or 1980	22
1981	20
1982	18
1983	16
1984 and thereafter	15

"(3) Geothermal deposit defined.—For purposes of paragraph (1), the term 'geothermal deposit' means a geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor (whether or not under pressure). Such a deposit shall in no case be treated as a gas well for purposes of this section or section 613A, and this section shall not apply to a geothermal deposit which is located outside the United States or its possessions."

26 USC 613A.

(2) Technical amendments.—

(A) Paragraph (1) of section 613(c) (defining gross income from the property) is amended by inserting "and other than a geothermal deposit" after "oil or gas well".

26 USC 613A.

(B) Paragraph (1) of section 613A(b) is amended—

(i) by inserting "and" at the end of subparagraph (A),

(ii) by striking out "and" at the end of subparagraph (B), and

(iii) by striking out subparagraph (C).

26 USC 614.

(C) Subsection (b) of section 614 (relating to special rules as to operating mineral interest in oil and gas wells) is amended—

(i) by inserting "or Geothermal Deposits" after "Gas Wells" in the subsection heading, and

(ii) by inserting "or geothermal deposits" after "gas wells" in so much of the text as precedes paragraph (1) thereof.

(D) Subsection (c) of section 614 is amended by striking out "oil and gas wells" each place it appears and inserting in lieu thereof "oil and gas wells and geothermal deposits".

(b) Natural Gas From Geopressured Brine.—

26 USC 613A.

(1) In general.—Subsection (b) of section 613A (relating to exemption for certain domestic gas wells) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

26 USC 611.

26 USC 613.

"(2) Natural gas from geopressured brine.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to any qualified natural gas from geopressured brine, and 10 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of such section."

Supra.

(2) Qualified natural gas from geopressured brine.—Paragraph (3) of section 613A(b) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(C) Qualified natural gas from geopressured brine.—The term 'qualified natural gas from geopressured brine' means any natural gas—

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"(i) which is determined in accordance with section 503 of the Natural Gas Policy Act of 1978 to be produced from geopressured brine, and

"(ii) which is produced from any well the drilling of which began after September 30, 1978, and before January 1, 1984."

26 USC 613 note.

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1978, and shall apply to taxable years ending on or after such date.

26 USC 613A note.

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(d) Coordination With Other Provision.—Any allowance for depletion allowed by reason of the amendments made by subsection (b) shall not be treated as a credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax which is specifically allowable with respect to any high-cost natural gas (or category thereof) for purposes of section 107(d) of the Natural Gas Policy Act of 1978.

SEC. 404. REREFINED LUBRICATING OIL.

26 USC 4093.

(a) In general.—Section 4093 (relating to exemption of sales to producers) is amended to read as follows:

"SEC. 4093. EXEMPTIONS.

"(a) Sales to Manufacturers or Producers for Resale.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him. 26 USC 4091.

"(b) Use in Producing Rerefined Oil.—

"(1) Sales to rerefiners.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

"(2) Use in producing rerefined oil.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing rerefined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

"(3) Rerefined oil defined.—For purposes of this subsection, the term 'rerefined oil' means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined."

(b) Conforming Amendment.—Section 4092(a) is amended by striking out "4093" and inserting in lieu thereof "4093(a)". 26 USC 4092.

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 32 is amended by striking out the item relating to section 4093 and inserting in lieu thereof the following: 26 USC 4091.

"Sec. 4093. Exemptions."

(d) Effective Date.—The amendments made by this section shall apply to sales on or after the first day of the first calendar month beginning more than 10 days after the date of the enactment of this Act. 26 USC 4093 note.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-435 (Comm. on Ways and Means) and No. 95-1773 (Comm. of Conference).

SENATE REPORTS: No. 95-529 (Comm. on Finance) and No. 95-1324 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Oct. 25-29, 31, considered and passed Senate, amended.

Vol. 124 (1978): Oct. 15, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-619
95th Congress

An Act

Nov. 9, 1978
[H.R. 5037]

For the relief of Jack R. Misner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Energy Conservation Policy Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

42 USC 8201 note.

(a) Short Title.—This Act may be cited as the "National Energy Conservation Policy Act".

(b) Table of Contents.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and statement of purposes.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

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Sec. 211. Coverage.
Sec. 212. Rules of Secretary for submission and approval of plans.
Sec. 213. Requirements for State residential energy conservation plans for regulated utilities.
Sec. 214. Plan requirements for nonregulated utilities and home heating suppliers.
Sec. 215. Utility programs.
Sec. 216. Supply, installation, and financing by public utilities.
Sec. 217. Home heating supplier programs.
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Sec. 220. Relationship to other laws.
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Sec. 224. Report on energy conservation in apartment buildings.
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Sec. 231. Department of Energy weatherization grant program.
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Sec. 233. Availability of labor.

Part 3—Secondary Financing and Loan Insurance for Energy Conserving Improvements and Solar Energy Systems

Sec. 241. Loan insurance for energy conserving improvements and solar energy systems under title I of the National Housing Act.
Sec. 242. Purchase by Government National Mortgage Association of loans to low- and moderate-income families for energy conserving improvements.
Sec. 243. Standby authority of Government National Mortgage Association to purchase loans for energy conserving improvements.
Sec. 244. Purchase by Government National Mortgage Association of loans for solar energy systems.
Sec. 245. Secondary financing by Federal Home Loan Mortgage Corporation of solar energy and energy conserving improvement loans.
Sec. 246. Secondary financing by Federal National Mortgage Association of solar energy and energy conserving improvement loans.

Sec. 247. Loan insurance for energy conserving improvements and solar energy systems in multifamily projects under section 241 of the National Housing Act.
Sec. 248. Increase in mortgage limits to cover costs of solar energy systems.

PART 4—MISCELLANEOUS

Sec. 251. Energy-conserving improvements for assisted housing.
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TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

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Sec. 302. Amendment to the Energy Policy and Conservation Act.
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Sec. 401. Fuel economy information.
Sec. 402. Civil penalties relating to automobile fuel efficiency.
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Sec. 421. Test procedures.
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Sec. 424. Effect of standards on other laws.
Sec. 425. Technical and conforming amendments.
Sec. 426. Appropriations authorization.
Sec. 427. Effects of other laws on procedures.

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Sec. 441. Energy efficiency of industrial equipment.

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

Sec. 461. Use of recovered materials.

TITLE V—FEDERAL ENERGY INITIATIVES

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Sec. 501. Conservation plan authorization.

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PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

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Sec. 601. Industrial energy efficiency reporting.

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PART 3—MINORITY ECONOMIC IMPACT

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PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

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PART 5—STUDIES

Sec. 681. Off-highway motor vehicles.
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Sec. 683. Second law efficiency study.

PART 6—TECHNICAL AMENDMENTS

Sec. 691. Definition of Administrator.

SEC. 102. FINDINGS AND STATEMENT OF PURPOSES.

42 USC 8201. (a) FINDINGS.—The Congress finds that—

(1) the United States faces an energy shortage arising from increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand;

(2) unless effective measures are promptly taken by the Federal Government and other users of energy to reduce the rate of growth of demand for energy, the United States will become increasingly

dependent on the world oil market, increasingly vulnerable to interruptions of foreign oil supplies, and unable to provide the energy to meet future needs; and

(3) all sectors of our Nation's economy must begin immediately to significantly reduce the demand for nonrenewable energy resources such as oil and natural gas by implementing and maintaining effective conservation measures for the efficient use of these and other energy sources.

(b) STATEMENT OF PURPOSES.—The purposes of this Act are to provide for the regulation of interstate commerce, to reduce the growth in demand for energy in the United States, and to conserve nonrenewable energy resources produced in this Nation and elsewhere, without inhibiting beneficial economic growth.

TITLE II—RESIDENTIAL ENERGY CONSERVATION

PART 1—UTILITY PROGRAM

SEC. 210. DEFINITIONS.

42 USC 8211.

As used in this title—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "load management technique" means any technique to reduce the maximum kilowatt demand on an electric utility, including ripple or radio control mechanisms, or other types of interruptible electric service, energy storage devices, and load limiting devices.

(3) The term "natural gas" means natural gas as defined in the Natural Gas Act.

(4) The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in a residential building.

(5) The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

(6) The term "nonregulated utility" means a public utility which is not a regulated utility.

(7) The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale of electric energy or natural gas.

(8) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(9) The term "residential building" means any building used for residential occupancy which—

(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply,

42 USC 6833, 6834.

(B) contains at least one, but no more than four, dwelling units, and

(C) has a system for heating or cooling, or both.

(10) The term "residential customer" means any person to whom—

(A) a public utility sells natural gas or electric energy, or

(B) a home heating supplier supplies or sells home heating fuel (including No. 2 heating oil, kerosene, butane, and propane),

for consumption by such customer in a residential building.

(11) The term "residential energy conservation measure" means—

(A) caulking and weatherstripping of doors and windows;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces or boilers or any combination thereof which, as determined by the Secretary, substantially increases the energy efficiency of the heating system,

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, and floor insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective glazed window and door materials;

(G) devices associated with load management techniques;

(H) devices to utilize solar energy or windpower for any residential energy conservation purpose, including heating of water, space heating or cooling; and

(I) such other measures as the Secretary by rule identifies for purposes of this part.

No measure referred to in subparagraphs (B) through (I) shall be treated as a residential energy conservation measure for purposes of this Part unless such measure is warranted by the manufacturer to meet a specified level of performance over a period of not less than three years.

(12) The term "residential energy conservation plan" means a plan approved by the Secretary pursuant to section 212.

(13) The term "State" means a State, the District of Columbia, and Puerto Rico.

(14) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy or natural gas by any public utility (other than by such State agency); except that in the case of a public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(15) The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

(16) The term "suggested measures" means, with respect to a particular residential building, the residential energy conservation measures which the Secretary, in the rules prescribed pursuant to section 212, determines to be appropriate for the location and the category of residential buildings which includes such building. In determining which of the residential energy conservation measures shall be suggested measures for a location and category of residential building, the Secretary shall consider the cost of the

inspection offered under section 215(b)(1)(A) and its effect on the willingness of residential customers to participate in the utility program.

(17) The term "utility program" means a program meeting the requirements of section 215.

(18) The term "Governor" means the Governor or chief executive officer of a State or his designee.

(19) The term "home heating supplier program" means a program meeting the requirements of section 217.

(20) The term "home heating supplier" means a person who sells or supplies home heating fuel (including No. 2 heating oil, kerosene, butane, and propane) to a residential customer for consumption in a residential building.

SEC. 211. COVERAGE.

(a) IN GENERAL.—This part shall apply in any calendar year to a public utility only if during the second preceding calendar year either— 42 USC 8212.

(1) sales of natural gas by such public utility for purposes other than resale exceeded 10 billion cubic feet, or

(2) sales of electric energy by such public utility for purposes other than resale exceeded 750 million kilowatt-hours.

(b) LIST OF COVERED UTILITIES.—Before the beginning of each calendar year, the Secretary shall publish a list identifying each public utility to which this part applies during such calendar year. Promptly after publication of such list, each State regulatory authority shall notify the Secretary of each public utility on the list for which such State regulatory authority has ratemaking authority.

SEC. 212. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

(a) PROMULGATION OF RULES BY SECRETARY.—The Secretary shall, not later than 45 days after enactment of this Act, publish an advanced notice of proposed rulemaking with respect to rules on the content and implementation of residential energy conservation plans which meet the requirements of sections 213 and 214. Not later than 60 days after the date of publication of the advanced notice of proposed rulemaking, and after consultation with the Secretary of Housing and Urban Development, the Secretary of Commerce (acting through the National Bureau of Standards), the Federal Trade Commission, the Consumer Product Safety Commission, and the heads of such other agencies as he deems appropriate, the Secretary shall publish a proposed rule on content and implementation of such plans. After publication of such proposed rule, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on matters relating to such proposed rule. A rule prescribing the content and implementation of residential energy conservation plans shall be published not earlier than 45 days after publication of the proposed rule. 42 USC 8213.

(b) CONTENT OF SECRETARY'S RULES.—The rules promulgated under subsection (a)—

(1) shall identify the suggested measures for residential buildings, by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary may deem appropriate;

(2) shall include—

(A) standards which the Secretary determines necessary for general safety and effectiveness of any residential energy conservation measure;

(B) standards which the Secretary determines necessary for installation of any residential energy conservation measure;

(C) standards for the procedures concerning fair and reasonable prices and rates of interest required under section 213(a)(4);

(D) standards, developed in consultation with the Federal Trade Commission, concerning unfair, deceptive, or anticompetitive acts or practices, for the measures required under section 213(b);

(E) standards which (i) require the lists referred to in section 213(a)(2) (concerning lists of suppliers and contractors) and 213(a)(3) (concerning lists of lending institutions) to be prepared in a fair, open, and nondiscriminatory manner and (ii) provide for the removal, in appropriate cases, of suppliers, contractors, or lending institutions from such lists; and

(F) standards which assure that any person who alleges any injury resulting from a violation of the requirements of the standards under subparagraph (E) shall be entitled to redress under procedures established by the Governor (or the Secretary in any case in which section 219, relating to Federal standby authority applies); and

(3) may include such other requirements as the Secretary may determine to be necessary to carry out this part.

(c) PROCEDURE FOR SUBMISSION AND APPROVAL OF STATE RESIDENTIAL ENERGY CONSERVATION PLANS.—(1)(A) Not later than 180 days after promulgation of rules under subsection (a), the Governor of each State or any State agency specifically authorized to do so under State law, may submit to the Secretary a proposed residential energy conservation plan which meets the requirements of the rules promulgated under subsection (a). Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under subsection (a), to the Secretary unless a plan submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in paragraph (2). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend, for good cause shown, the time period for submission of a plan.

Extension.

(B) Each such plan shall be reviewed and approved or disapproved by the Secretary not later than 90 days after submission. If the Secretary disapproves a plan, the Governor or State agency or nonregulated utility may submit a new or amended plan not later than 60 days after the date of such disapproval, or such longer period as the Secretary may, for good cause, allow. The Secretary shall review and approve or disapprove any such new or amended plan not later than 90 days after submission.

Amended plan.

(C) After approval of a plan, a Governor or State agency or nonregulated utility may submit an amended plan and such plan shall be approved or disapproved in the same manner as the original plan.

(2) Any plan submitted by a Governor or State agency under paragraph (1) may, in the discretion of the Governor, if he notifies the

Secretary within 30 days after promulgation of rules under subsection (a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case references elsewhere in this part to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this part to nonregulated utilities shall not apply. For purposes of this paragraph, the term "nonregulated utility" shall not include any public utility which is a Federal agency.

"Nonregulated utility."

(3) A plan applicable to home heating suppliers may be submitted by the Governor in his discretion.

(4) In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

SEC. 213. REQUIREMENTS FOR STATE RESIDENTIAL ENERGY CONSERVATION PLANS FOR REGULATED UTILITIES.

42 USC 8214.

(a) General Requirements.—No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan—

(1) requires each regulated utility to implement a utility program which meets the requirements of section 215 (except such requirements of section 215 as do not apply by reason of section 216(f)) and contains adequate State enforcement procedures in connection with such implementation;

(2) provides a procedure for permitting any supplier or contractor—

(A) who sells or installs residential energy conservation measures in the area served by such utility, and

(B) who meets such minimum requirements as may be contained in rules promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(3) provides a procedure for permitting any bank, savings and loan association, credit union, or other public or private lending institution which—

(A) offers loans for the purchase and installation of residential energy conservation measures in the areas served by such utility and

(B) which meets such minimum requirements as may be promulgated by the Secretary under section 212(b)(2)(E)

to be included on a list made public by such utility as provided under section 215(a)(3);

(4) provides adequate procedures to assure that each regulated utility will charge fair and reasonable prices and rates of interest to its residential customers under such utility program in connection with the purchase and installation of residential energy conservation measures;

(5) provides procedures for resolving complaints against persons who sell or install residential energy conservation measures under such program;

(6) provides procedures for insuring that effective coordina-

tion exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Secretary of Energy;

(7) is adopted after notice and public hearings; and

(8) meets such other requirements as may be contained in the rules promulgated under section 212.

(b) REQUIREMENTS CONCERNING UNFAIR, DECEPTIVE, OR ANTICOMPETITIVE ACTS OR PRACTICES.—

(1) No proposed residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains adequate measures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of utility programs within such State.

(2) The measures under paragraph (1) shall include—

(A) provisions to assure that, in carrying out procedures under section 215(b)(1) (or the corresponding procedures in section 217) the regulated utility will not unfairly discriminate among—

(i) residential customers,

(ii) suppliers and contractors of such measures, or

(iii) lending institutions in the utility's service area which offer loans for the purchase and installation of residential energy conservation measures, and

will not unfairly discriminate among measures which are purchased from, or installed by, any person under such program, and

(B) provisions to assure that in the case of a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by a utility, such utility will not inspect such furnace, or make, install, or inspect any furnace efficiency modification referred to in section 210(11)(B), unless the residential customer requests (in writing) such inspection, installation, or modification.

(c) REDRESS.—No residential energy conservation plan submitted for regulated utilities shall be approved by the Secretary unless such plan contains provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress under such procedures as may be established by the Governor or State agency.

SEC. 214. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND HOME HEATING SUPPLIERS.

42 USC 8215.

(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No residential energy conservation plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213 for regulated utilities and in addition contains procedures pursuant to which such utility will submit a written report to the Secretary not later than one year after approval of such plan, and biennially thereafter, regarding the implementation of a utility program under section 215 and containing such information as may be required by the Secretary in the rules promulgated under section 212. In applying the requirements of section 213 in the case of a plan for nonregulated utilities under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility.

(b) Requirements for Plans for Home Heating Suppliers.—No residential energy conservation plan proposed for home heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under section 213(a) (other than paragraphs (1) and (8) thereof) and section 213(b) and (c) and in addition—

(1) meets the requirements of section 217 and contains adequate enforcement procedures with respect to such requirements;

(2) meets such requirements applicable to home heating suppliers as may be contained in the rules promulgated under section 212; and

(3) takes into account the resources of small home heating suppliers.

In applying the requirements of section 213 in the case of a plan for home heating suppliers under this section, any reference to a regulated utility shall be treated as a reference to the home heating supplier and any reference to a utility program shall be treated as a reference to a home heating supplier program.

SEC. 215. UTILITY PROGRAMS.

42 USC 8216.

(a) Information Requirements.—Each utility program shall include procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each of its residential customers who owns or occupies a residential building, of—

(1) the suggested measures for the category of buildings which includes such residential building;

(2) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category;

(3) the availability of the arrangements described in subsection (b) and the lists referred to in section 213(a)(2) and (3); and

(4) suggestions of energy conservation techniques, including suggestions developed by the Secretary, such as adjustments in energy use patterns and modifications of household activities which can be employed by the residential customer to save energy and which do not require the installation of energy conservation measures (including the savings in energy costs that are likely to result from the adoption of such suggestions).

(b) Project Manager Requirements.—Each utility program shall include—

(1) procedures whereby the public utility, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, will, for each residential customer who owns or occupies a residential building, offer to—

(A) inspect the residential building (either directly or through one or more inspectors under contract) to determine and inform the residential customer of the estimated cost of purchasing and installing the suggested measures and the savings in energy costs that are likely to result from the installation of such measures (a report of which inspection shall be kept on file for not less than 5 years which shall be available to any subsequent owner without charge), except that a utility shall be required to make only one inspection of a residence unless a new owner requests a subsequent inspection;

(B) arrange to have the suggested measures installed (except for furnace efficiency modifications with respect to which the inspection prohibition of section 213(b)(2)(B) applies, unless the customer requests in writing arrangements for such modifications in writing); and

(C) arrange for a lender to make a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(2) procedures whereby the public utility provides to each of its residential customers the lists as described in section 213(a)(2) and (3).

(c) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—(1) Each utility program shall include—

(A) procedures to assure that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 219(d)) are accounted for on the books and records of the utility separately from amounts attributable to all other activities of the utility;

(B) procedures to assure that all amounts expended by a utility for providing information under subsection (a) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service;

(C) procedures to permit general administrative costs of carrying out a utility program and the amounts expended by a public utility to carry out subsection (b) to be, in the discretion of the State regulatory authority (or in the case of a nonregulated utility, in the discretion of such nonregulated utility)—

(i) treated as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service, or

(ii) charged to the residential customer for whom the activity is performed; and

(D) procedures to assure that the costs of labor and materials incurred by a utility for the purchase or installation of any residential energy conservation measure shall be charged to the residential customer for whom such activity is performed.

(2)(A) The costs of carrying out any activity as a part of a utility program under this section (other than an activity described in subparagraph (B), (C), or (D) of paragraph (1)) shall be charged to the residential customer for whom such activity is performed, unless (and to the extent that) the State regulatory authority or nonregulated utility (as the case may be) finds, after public notice and an opportunity for a public hearing, that treatment of such costs in the manner described in clause (i) of paragraph (1)(C) is likely to result (by reason of reduction in demand for energy) in lower rates to the ratepayers of such utility than would occur if the utility did not treat such costs in the manner described in such clause. Any such costs with respect to which such finding is made shall be treated in the manner described in clause (i) of paragraph (1)(C).

(B) Any portion of the costs of carrying out any activity as a part of a utility program under this section which are charged to the residential customer for whom such activity is performed and included on a billing for utility service submitted by the utility to such residential customer shall be stated separately on such billing from the cost of providing utility service.

(C) For purposes of this subsection, the term "ratepayer" means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility.

"Ratepayer."

(d) Requirements Respecting New Customers.—In the case of any person who becomes a residential customer of a utility carrying out a utility program under this section after January 1, 1980 (or the date six months after approval of the applicable plan, if later), and before January 1, 1985, not later than 60 days after such person becomes a residential customer of such utility, such utility shall inform such person of the items listed in subsection (a), the offer required under subsection (b)(1)(A), and shall offer such person the opportunity to enter into arrangements referred to in subparagraphs (B) and (C) of subsection (b)(1).

(e) Termination of Service.—No utility implementing any program under this section may terminate utility service to any customer by reason of any default of such customer with respect to payments due for energy conservation measures installed pursuant to such program.

(f) Loans.—(1) In the case of any loan made by a public utility (as may be permitted under subsection (c), (d)(1), (d)(2), or (e) of section 216) to a residential customer under a utility program under this part, the public utility carrying out such program shall permit the residential customer to repay the principal and interest of such loan as a part of his periodic bill (over a period of not less than 3 years unless he elects a shorter payment period). In the case of a loan made by any other person, the public utility shall permit repayment of the loan as part of the periodic bill if such other person agrees to repayment in such manner.

(2) In the case of any loan referred to in paragraph (1)—

(A) a lump-sum payment of outstanding principal and interest may be required by the lender upon default (as determined under otherwise applicable law) in payment by the residential customer, and

(B) no penalty shall be imposed by the lender for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(g) Exempt Activities.—For purposes of this section, the term "utility program" includes activities which are subject to this section by reason of section 216(f).

"Utility program."

SEC. 216. SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES.

(a) Prohibition on Supply, Installation, or Financing.—Except as provided in this section, no public utility may—

42 USC 8217.

(1) supply or install a residential energy conservation measure, or

(2) make a loan to any residential customer for the purchase or installation of any residential energy conservation measure.

(b) Exemption From Prohibition on Installation.—The prohibition contained in subsection (a)(1) shall not apply to the energy conservation measures referred to in section 210(11)(B) or 210(11)(C), or devices associated with load management techniques for the type of energy sold by the utility.

(c) Exemption From Prohibition on Financing.—The prohibition contained in subsection (a)(2) shall not apply to any loan to a residential customer which does not exceed the greater of—

(1) $300, or

(2) the cost of purchase, and installation in such customer's residence, of items referred to in subsection (b).

(d) General Exemptions.—The prohibitions contained in subsection (a) shall not apply to—

(1) the supply, installation, or financing of those specific residential energy conservation measures which the Secretary determines were being installed or financed by a public utility on the date of enactment of this Act;

(2) supply, installation, or financing activities which the Secretary determines were broadly advertised or for which substantial preparations were completed on or before the date of enactment of this Act; or

(3) supply, installation, or financing activities by a public utility with respect to energy conservation measures where a law or regulation in effect on or before the date of enactment of this Act either requires, or explictly permits, the public utility to carry out such activities.

(e) Waiver.—The Secretary may, upon petition of a public utility, supported in the case of a regulated utility by a Governor, waive in whole or in part the prohibitions contained in subsection (a) with respect to the utility if such utility demonstrates to the satisfaction of the Secretary that, in carrying out prohibited activities under subsection (a), fair and reasonable prices and rates of interest would be charged and the Secretary finds, after consultation with the Federal Trade Commission that such activities would not be inconsistent with the prevention of unfair methods of competition and the prevention of unfair or deceptive acts or practices.

(f) Applicability of Section 215.—Any public utility carrying out activities permitted under subsection (b) or (c) or subsection (d)(2) or (e) of this section shall be subject to all the requirements of section 215 with respect to such activities. A public utility which is carrying out activities permitted pursuant to subsection (d)(1) shall, within such reasonable period as may be prescribed by the Secretary, be subject to all such requirements of section 215 with respect to such activities. A public utility carrying out activities permitted pursuant to the exemption contained in subsection (d)(3) shall not be subject to the requirements of section 215 with respect to such activities.

(g) Prohibition on Supply, Installation or Financing by Utilities.—After the date of the enactment of this Act, no public utility may make any loan, to finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

(1) such loans are being made, or supply or installations carried out by such utility at unreasonable rates or on unreasonable terms and conditions, or

(2) such loans made, or supply or installations carried out by such utility, have a substantial adverse effect upon competition.

(h) ENFORCEMENT.—For purposes of section 219(d), any violation of a prohibition contained in this section shall be treated as a violation of a plan promulgated under section 219(a).

SEC. 217. HOME HEATING SUPPLIER PROGRAMS.

(a) REQUIREMENTS.—Each home heating supplier program shall include— 42 USC 8218.

(1) procedures designed to inform, no later than January 1, 1980, or the date six months after the approval of the applicable plan under section 212, if later, and each two years thereafter before January 1, 1985, each residential customer of each participating home heating supplier who owns or occupies a residential building of—

(A) the suggested measures for the category of buildings which includes such residential building;

(B) the savings in energy costs that are likely to result from installation of the suggested measures in typical residential buildings in such category; and

(C) the availability of the arrangements described in paragraph (2) of this subsection; and

(2) procedures whereby a participating home heating supplier, no later than January 1, 1980 (or the later date referred to in paragraph (1)) will offer each such residential customer the opportunity to enter into arrangements with the home heating supplier under which such supplier, directly or through one or more inspectors under contract, will—

(A) inspect the residential building to determine and inform the residential customer of the estimated cost of purchasing and installing, and the savings in energy costs that are likely to result from installing, suggested measures;

(B) inform each interested customer of the lists referred to in section 213(a) (2) and (3);

(C) install or have suggested measures installed;

(D) make, or arrange for another lender to make, a loan to such residential customer to finance the purchase and installation costs of suggested measures; and

(E) permit the residential customer to repay the principal of and interest on any loan made pursuant to subparagraph (D) (over a period of not less than three years unless the customer elects a shorter payment period) as a part of his periodic bill except:

(i) failure to make any payment of such principal or interest shall not be grounds for the termination of fuel deliveries to the residential customer; and

(ii) a lump-sum payment of outstanding principal and interest may be required upon default (as determined under otherwise applicable law) in payment by the residential customer.

No penalty shall be imposed by the lender, under procedures described in paragraph (2), for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(b) NOTICE; WAIVER.—A home heating supplier who wishes to participate in the program established pursuant to this section may so notify the Governor. The Governor may waive, for any home heating supplier, any requirement of this section, upon demonstration to his satisfaction that the resources of such supplier do not enable him to comply with such requirement.

SEC. 218. TEMPORARY PROGRAMS.

42 USC 8219.

(a) Exemption From Certain Requirements.—A Governor of any State, on behalf of one or more utilities, or any public utility (supported by the Governor in the case of a regulated utility) may, no later than 180 days after the promulgation of rules pursuant to section 212, apply for a temporary exemption for one or more utilities from one or more of the requirements of section 215 and the prohibitions contained in section 216(a). Such temporary exemption may be granted, as determined by the Secretary, for a period not to exceed 3 years after the date of approval of such exemption.

(b) Time Limit.—An application for an exemption under subsection (a) shall be approved or disapproved by the Secretary within 90 days of receipt of such application or such longer period as the Secretary may require in the case of any particular application.

(c) Information.—An application for an exemption under subsection (a) to establish a temporary program shall contain such information and meet such requirements as the Secretary shall prescribe by rule.

(d) Requirements.—In order for an application for an exemption under subsection (a) to be granted, the Governor or the public utility shall demonstrate to the satisfaction of the Secretary that the temporary program will:

(1) contain adequate procedures to assure that each public utility, in connection with such program, will charge fair and reasonable prices and rates of interest to its residential customers in connection with the purchase and installation of residential energy conservation measures;

(2) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) be likely to result in the installation of suggested measures in at least as many residential buildings as would have been installed had such utility submitted a program which met the requirements of section 215 and did not violate the prohibitions contained in section 216(a).

(e) Federal Standby Authority.—The Secretary shall not exercise the Federal standby authority, pursuant to section 219 (a) or (b) with respect to any public utility which is covered by a temporary exemption approved by the Secretary pursuant to this section. Upon termination of such temporary exemption, the Secretary shall exercise such authority unless, within such period as he deems reasonable after such termination, the State (or nonregulated utility as the case may be) has a plan applicable to such utility approved under section 212 and such plan is being adequately implemented (as determined by the Secretary).

SEC. 219. FEDERAL STANDBY AUTHORITY.

42 USC 8220.

(a) Standby Authority for State Regulated Utilities.—If a State does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a), or within such additional period as the Secretary may allow pursuant to section 212 (c)(1), or if the Secretary determines, after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

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(1) promulgate a plan which meets the requirements of section 213, and

(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except with respect to a utility for which such requirements are inapplicable by reason of section 216(f)).

For purposes of applying section 213(c) in the case of a plan promulgated by the Secretary under this section, the references to the Governor or State agency shall be treated as references to the Secretary.

(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 212 does not have a plan approved under section 212(c) within 270 days after promulgation of rules under section 212(a) or within such additional period as the Secretary may allow pursuant to section 212(c)(1), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility to—

(1) promulgate a plan which meets the requirements of section 214 and which applies to the residential buildings which would have been covered had such a plan been so approved or implemented, and

(2) under such plan, by order, require the nonregulated utility to offer, not later than 90 days following the date of issuance of such order, to its residential customers a utility program prescribed in such order which meets the requirements specified in section 215 (except in the case of a nonregulated utility for which such requirements are inapplicable by reason of section 216(f)).

Petition, filing.

(c) FAILURE TO COMPLY WITH ORDERS.—If the Secretary determines that any public utility to which an order has been issued pursuant to subsection (a) or (b) has failed to comply with such order, he may file a petition in the appropriate United States district court to enjoin such utility from violating such order.

(d) CIVIL PENALTY.—(1) Any public utility which violates any requirement of a plan promulgated under subsection (a) or (b) or which fails to comply with an order under subsection (a) or (b) within 90 days from the issuance of such order shall be subject to a civil penalty of not more than $25,000 for each violation. Each day that such violation continues shall be considered a separate violation.

42 USC 7172.

(2)(A) Notwithstanding section 402(d) of the Department of Energy Organization Act, a civil penalty under this subsection shall be assessed by an order of the Secretary.

(B) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after receipt of such notice to have the procedures of paragraph (4) (in lieu of those of paragraph (3)) apply with respect to such assessment.

(3)(A) Unless an election in writing is made within 30 calendar days after receipt of notice under paragraph (2) to have paragraph (4) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

Judicial review.

(B) Any person against whom such penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(4)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall assess such penalty, by order, not later than 60 calendar days after the date of receipt of notice under paragraph (2) of the proposed penalty.

Assessment, affirmation.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

Penalty, recovery.

(5) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (3), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (4), the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final order or judgment imposing the civil penalty shall not be subject to review.

42 USC 7192.

(6)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502 of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which this subsection applies (including any related collection action) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

SEC. 220. RELATIONSHIP TO OTHER LAWS.

42 USC 8221.

(a) STATE AND LOCAL LAW IN GENERAL.—Nothing in this Part shall supersede any law or regulation of any State or political subdivision thereof, except to the extent that the Secretary, upon petition of a public utility and for good cause, determines that such law or regulation prohibits a public utility from taking any action required to be taken under this Part or that such law or regulation requires or permits any public utility to take any action prohibited under this Part.

(b) LAWS RELATING TO UNFAIR COMPETITION AND DECEPTIVE ACTS.—Nothing in this Part shall be construed as restricting the authority of any agency or instrumentality of the United States or of any State under any provision of law to prevent unfair methods of competition and unfair or deceptive acts or practices.

(c) TRUTH IN LENDING.—Nothing contained in section 104(4) of the Truth in Lending Act (15 U.S.C. 1603(4)) or the regulations issued pursuant thereto shall be deemed to exempt sales or credit extensions by public utilities under this Part.

(d) MANUFACTURER'S WARRANTIES.—With respect to the last sentence of section 210(11) respecting warranties offered by a manufacturer, all Federal and State laws otherwise applicable to such warranties offered by a manufacturer shall apply, except to the extent inconsistent with such last sentence.

SEC. 221. RULES.

The Secretary is authorized to promulgate such rules as he determines may be necessary to carry out this Part. 42 USC 8222.

SEC. 222. PRODUCT STANDARDS.

The Secretary shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard which is relied on in implementing this Part as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices, and with the Federal Trade Commission for the purpose of insuring that such standards do not operate to deceive consumers or unreasonably restrict consumer or producer options, and that such standards (when applicable) are suitable as a basis for making truthful and reliable disclosures to consumers regarding performance and safety attributes of energy conservation products, materials, and devices. 42 USC 8223.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated $5,000,000 to the Secretary for each of the first three fiscal years 1979, 1980, and 1981, to carry out his responsibilities under this Part. 42 USC 8224.

SEC. 224. REPORT ON ENERGY CONSERVATION IN APARTMENT BUILDINGS.

(a) REPORT.—The Secretary shall, within six months after the date of enactment of this Act, prepare a report on the potential for energy conservation in apartment buildings. 42 USC 8225.

(b) CONSIDERATION REQUIRED.—The report required under this section shall include a consideration of:

(1) structural and energy control measures which may result in energy conservation in apartment buildings;

(2) potential for energy conservation in apartment buildings which could be achieved by the application of a utility program (such as provided in this part) to apartment buildings;

(3) the costs of achieving energy conservation in apartment buildings, and the need for Federal financial assistance to achieve energy savings; and,

(4) recommendations for appropriate legislation.

42 USC 6833.

(c) Definition.—For purposes of this section, the term "apartment building" means a building used for residential occupancy which is not a new building to which final standards under section 304(a) of the Energy Conservation and Production Act apply and which contains more than four dwelling units.

SEC. 225. FEDERAL TRADE COMMISSION STUDY AND REPORT.

Report to Congress and President.
42 USC 8226.

(a) Study.—(1) Before January 1, 1982, the Federal Trade Commission shall complete a study and submit a report to Congress and the President on the activities of public utilities and home heating suppliers under this part.

(2) The study shall include a review of the making, or arranging, of loans and the installation, or arranging for installation, of any residential energy conservation measure by public utilities and home heating suppliers.

(3) Such study may contain legislative recommendations respecting lending and installation activities for any residential energy conservation measure by public utilities and home heating suppliers and may contain recommendations concerning whether public utilities or home heating suppliers should be permitted by State or Federal law to continue to carry out such activities.

(b) Considerations Required.—In conducting the study under this part, the Commission shall consider the effect of public utility and home heating supplier activities under this part on—

(1) competition among utilities, home heating suppliers, contractors, and lenders in a utility's service area;

(2) the availability of supplies of each residential energy conservation measure and the price of purchasing and installing each such measure;

(3) the increase in the number of residential buildings in which are installed, or likely to be installed any such measure; and

(4) any other factors the Commission deems appropriate.

PART 2—WEATHERIZATION GRANTS FOR THE BENEFIT OF LOW-INCOME FAMILIES

SEC. 231. DEPARTMENT OF ENERGY WEATHERIZATION GRANT PROGRAM.

42 USC 6862.

(a) Eligibility.—(1) Section 412(7)(A) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(A) by inserting "125 percent of" after "is at or below"; and

(B) by inserting after "Budget," the following: "except that the Administrator may establish a higher level if the Administrator, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964.".

42 USC 2809.
42 USC 6863.

(2) The last sentence of section 413(a) of such Act is amended by striking out "in which the head of the household is a low-income person." and inserting in lieu thereof "occupied by low-income families.".

(b) Standards and Materials.—(1) Section 413(b) of such Act is amended by inserting the following new paragraph at the end thereof:

Publication in Federal Register.

"(3) The Administrator, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the

Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this paragraph, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

"(A) the cost of the weatherization material;

"(B) variation in climate; and

"(C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Administrator in carrying out this part, the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Administrator shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph.".

42 USC 1474.

42 USC 2809.

(2) Section 412(9) of such Act is amended to read as follows:

42 USC 6862.

"Weatherization materials."

"(9) The term 'weatherization materials' means—

"(A) caulking and weatherstripping of doors and windows;

"(B) furnace efficiency modifications limited to—

"(i) replacement burners designed to substantially increase the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(C) clock thermostats;

"(D) ceiling, attic, wall, floor, and duct insulation;

"(E) water heater insulation;

"(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

"(G) such other insulating or energy conserving devices or technologies as the Administrator may determine, by rule, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.".

(c) LIMITATIONS ON EXPENDITURES.—Section 415 of such Act is amended—

42 USC 6865.

(1) by striking out "Weatherization materials, except that" in subsection (a) and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "weatherization materials and related matter described in subsection (c), except that not more than 5 percent of any grant made pursuant to section 413(a) and not more than 5 percent of any amount allocated under this section may be used for administration in carrying out duties under this part."; and

42 USC 6863.

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), not more than $800 of any financial assistance provided under this part may be expended with respect to weatherization materials and the following related matters for any dwelling unit—

"(A) the appropriate portion of the cost of tools and equipment used to install such materials for such unit;

"(B) the cost of transporting labor, tools, and material to such unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost (not to exceed $100) of making incidental repairs to such unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) The limitation of $800 described in paragraph (1) shall not apply if the State policy advisory council, established pursuant to section 414(b)(1), requests the Administrator to provide for a greater amount with respect to specific categories of units or materials in the State, and the Administrator approves such request.". 42 USC 6864.

42 USC 6872. (d) FUNDING.—Section 422 of such Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $130,000,000 for the fiscal year ending September 30, 1978, not to exceed $200,000,000 for the fiscal year ending September 30, 1979, and not to exceed $200,000,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

SEC. 232. FARMERS HOME ADMINISTRATION WEATHERIZATION GRANT PROGRAM.

42 USC 1474. (a) ESTABLISHMENT OF PROGRAM.—Section 504 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(c)(1) In addition to other duties specified in this section, the Secretary shall develop and conduct a weatherization program for the purpose of making grants to finance the purchase or installation, or both, of weatherization materials in dwelling units occupied by low-income families. Such grants shall be made to low-income families who own dwelling units or, subject to the provisions of paragraph (2), to owners of such units for the benefit of the low-income tenants residing therein. In making grants under this subsection, the Secretary shall give priority to the weatherization of dwelling units occupied by low-income elderly or handicapped persons. The Secretary shall, in carrying out this section, consult with the Director of the Community Services Administration and the Secretary of Energy for the purpose of coordinating the weatherization program under this subsection, section 222(a)(12) of the Economic Opportunity Act of 1964, and part A of the Energy Conservation in Existing Buildings Act of 1976. 42 USC 2809. 42 USC 6861.

"(2) In the case of any grant made under this subsection to an owner of a rental dwelling unit the Secretary shall provide that (A) the benefits of weatherization assistance in connection with such unit will accrue primarily to the low-income family residing therein, (B) the rents on such dwelling unit will not be raised because of any increase in value thereof due solely to weatherization assistance provided under this subsection, and (C) no undue or excessive enhancement will occur to the value of such unit.

"(3) In carrying out this subsection, the Secretary shall (A) implement the weatherization standards described in paragraphs (2)(A) and (3) of section 413(b) of the Energy Conservation in Existing Buildings Act of 1976, and (B) provide that, with respect to any dwelling unit, not more than $800 of any grant made under this section be expended on weatherization materials and related matters described in section 415(c) of the Energy Conservation in Existing Buildings Act of 1976, except that the Secretary shall increase such amount to not more than $1,500 to cover labor costs in areas where the Secretary, in consultation with the Secretary of Labor, determines there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973 or the Older American Community Service Employment Act, available to work on weatherization projects under the supervision of qualified supervisors.

42 USC 6863.

42 USC 6865.

29 USC 801 note.

42 USC 3001 note.

"(4) For purposes of this subsection, the terms 'elderly,' 'handicapped person,' 'low income,' and 'weatherization materials' shall have the same meanings given such terms in paragraphs (3), (5), (7), and (9), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

(b) Funding.—Section 513(b) of such Act is amended by inserting the following before the semicolon at the end thereof: ", except that not less than $25,000,000 of any amount authorized to be appropriated for the fiscal year ending September 30, 1979, is authorized to be appropriated for making grants pursuant to section 504(c)".

42 USC 6862.

42 USC 1483.

SEC. 233. AVAILABILITY OF LABOR.

42 USC 1474.

The following actions shall be taken in order to assure that there is a sufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment Training Act of 1973 and the Older American Community Service Employment Act, available to work in support of weatherization programs conducted under part A of the Energy Conservation in Existing Buildings Act of 1976, section 222(a)(12) of the Economic Opportunity Act of 1964, and section 504 of the Housing Act of 1949:

42 USC 6873.

42 USC 6861.

42 USC 2809.

(1) First, the Secretary of Energy (in consultation with the Director of the Community Services Administration, the Secretary of Agriculture, and the Secretary of Labor) shall determine the number of individuals needed to supply sufficient labor to carry out such weatherization programs in the various areas of the country.

(2) After the determination in paragraph (1) is made, the Secretary of Labor shall identify the areas of the country in which there is an insufficient number of such volunteers and training participants and public service employment workers.

(3) After such areas are identified, the Secretary of Labor shall take steps to assure that such weatherization programs are supported to the maximum extent practicable in such areas by such volunteers and training participants and public service employment workers.

PART 3—SECONDARY FINANCING AND LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS

SEC. 241. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS UNDER TITLE I OF THE NATIONAL HOUSING ACT.

12 USC 1702.

Subparagraphs (2) and (3) of the last paragraph of section 2(a) of the National Housing Act are amended to read as follows:

12 USC 1703.
"Energy conserving improvements."

"(2) the term 'energy conserving improvements' means the purchase and installation of weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976; and

42 USC 6862.
"Solar energy system."

"(3) the term 'solar energy system' means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.".

SEC. 242. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS TO LOW- AND MODERATE-INCOME FAMILIES FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF ENERGY CONSERVING IMPROVEMENT LOANS TO LOW- AND MODERATE-INCOME FAMILIES

12 USC 1723f.

"SEC. 314. (a) As soon as practicable after the date of enactment of this section, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and which are made to low- and moderate-income families for the purpose of purchasing and installing energy conserving improvements in one- to four-family dwelling units owned by such families. A loan or advance of credit may be purchased under this section only if—

12 USC 1702.

"(1) the term of repayment does not exceed 15 years and is not less than 5 years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Agriculture and the Secretary of Energy and after taking into account the probable scope of the program at such rate and the impact a program at such rate may have on credit markets, the Federal budget, and on inflation) establishes, for the purpose of encouraging the making of loans and advances of credit to be purchased under this section, at or below the maximum interest rate permissible for such loan or advance of credit insured under title I of the National Housing Act, but in no event shall such rate be below the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next proceeding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs;

12 USC 1702.

"(3) the amount of such loan or advance of credit does not exceed $2,500;

"(4) such loan or advance of credit is not used for the refinancing of any extension of credit; and

"(5) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.

"(c) The Secretary shall direct the Association to give priority to purchasing loans and advances of credit under this section which are made to low- and moderate-income elderly or handicapped persons or to families with which such persons reside.

"(d) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

31 USC 774.

"(e) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(f) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(g) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriations Acts, but in no case may such amount exceed $3,000,000,000 at any one time.

"(h) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(i) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

Definitions.

"(j) For purposes of this section—

"(1) the term 'low- and moderate-income family' means a family, including a single individual, whose income does not exceed 100 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 100 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, usually high- or low-median family incomes, or other factors;

"(2) the term 'energy conserving improvements' shall have the same meaning given such term in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act; and

"(3) the terms 'elderly' and 'handicapped person' shall have the meaning given such terms by paragraphs (3) and (5), respectively, of section 412 of the Energy Conservation in Existing Buildings Act of 1976.".

42 USC 6862.

SEC. 248. STANDBY AUTHORITY OF GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"STANDBY AUTHORITY TO PURCHASE LOANS FOR ENERGY CONSERVING IMPROVEMENTS

12 USC 1723g.

"SEC. 315. (a)(1) Whenever the Secretary finds that insufficient credit is available on a national basis to finance the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act (to an extent which the Secretary determines is necessary to advance the achievement of the national program of energy conservation in residential dwelling units, the Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credit (and related purchase certificates and other related instruments) in accordance with this section.

12 USC 1703.

"(2) The Secretary may direct the Association to terminate its activities under this section whenever the Secretary determines that the conditions which gave rise to the determination under paragraph (1) are no longer present.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are insured under title I of the National Housing Act and made to owners of one- to four-family dwelling units or insured under section 241 of the National Housing Act and which are made for the purpose of purchasing and installing energy conserving improvements (as defined in

12 USC 1702.

12 USC 1715z-6.

subparagraph (2) of the last paragraph of section 2(a) of such Act) in dwelling units.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder. 31 USC 774.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting the coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amounts exceed $2,000,000,000 at any one time.

"(g) A loan or advance of credit may be purchased under this section only if—

"(1) such loan or advance of credit is not used for the refinancing of an extension of credit; and

"(2) the energy conserving improvements financed by such loan or advance of credit are purchased and installed after the date of enactment of this section.".

SEC. 244. PURCHASE BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION OF LOANS FOR SOLAR ENERGY SYSTEMS.

The Federal National Mortgage Association Charter Act is amended by adding the following new section at the end thereof:

"PURCHASE OF LOANS FOR SOLAR ENERGY SYSTEMS

"SEC. 316. (a) The Secretary shall direct the Association to begin making commitments to purchase, and to purchase, loans and advances of credits (and related purchase certificates and other related instruments) in accordance with this section. 12 USC 1723h.

"(b) In accordance with the directive issued by the Secretary under subsection (a), the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, loans and advances of credit (and related purchase certificates and other related instruments) which are made to owners of a one- to four-family dwelling units and insured under title I of 12 USC 1702. the National Housing Act and which are made for the purpose of purchasing and installing solar energy systems (as defined in subpara- 12 USC 1703. graph (3) of the last paragraph of section 2(a) of such Act) in such dwelling units. A loan or advance of credit may be purchased under this section only if—

"(1) the term of repayment does not exceed fifteen years, except that there shall be no penalty imposed if the borrower repays such loan or advance of credit at any time before the term of repayment expires;

"(2) subject to subsection (i), such loan or advance of credit involves an interest rate which the Secretary (after consulting with the Secretary of Energy) establishes and which is not less than the current average yield on outstanding interest bearing obligations of the United States of comparable maturities then forming a part of the public debt (computed at the end of the fiscal year next preceding the date on which the loan or advance is made, and adjusted to the nearest one-eighth of 1 per centum) plus an allowance adequate to cover administrative costs and not more than the maximum interest rate permissible for such a loan or advance of credit insured under title I of the National Housing Act;

"(3) the amount of such loan or advance of credit does not exceed $8,000;

"(4) the security for such loan or advance of credit is acceptable to the Secretary;

"(5) such loan or advance of credit is not used for the refinancing of any other extension of credit; and

"(6) the solar energy system financed by such loan or advance of credit is purchased and installed after the date of enactment of this section.

"(c) The Association may issue, to the extent and in such amounts as may be approved in appropriation Acts, to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the 31 USC 774. Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

"(d) No State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with loan transactions and no State law prohibiting coverage of loan insurance required by the Association shall apply to transactions under this section.

"(e) The Association is authorized to—

"(1) sell loans and advances of credit purchased under this section at prices which it determines will help promote the objectives of assuring that operations under this section are, to the extent feasible, fully self-supporting; and

"(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

"(f) The total amount of outstanding purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed amounts approved in appropriation Acts, but in no case may such amount exceed $100,000,000 at any one time.

"(g) The Secretary shall establish a purchase price to be paid by the Association for loans and advances of credit under this section which shall be adequate to compensate the lender for a reasonable return on such loan or advance, plus such reasonable costs as are normally incurred in originating, servicing, and otherwise processing such loans and advances.

"(h) Any loan or advance of credit purchased under this section shall be purchased with recourse to the originator.

"(i) If, after one year following the date on which the Association may issure obligations under subsection (c), 50 per centum of the amount available during such one-year period for financing the program established by this section has not been utilized, the Secretary shall provide that loans and advances of credit which may be purchased under this section shall have the lowest interest rate authorized by subsection (b)(2) unless the Secretary finds that the interest rate is not the primary impediment to carrying out such program and that lowering the interest rate will not increase the utilization of the funds made available to carry out such program.

"(j) The authority to purchase loans and advances of credit under this section shall terminate five years after the date of enactment of this section.".

SEC. 245. SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

12 USC 1451.
"Residential mortgage."
12 USC 1702.

Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding the following new sentence at the end thereof: "The term 'residential mortgage' also includes a loan or advance of credit insured under title I of the National Housing Act whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term 'residential mortgage' also includes a loan or advance of credit for such purposes not having the benefit of such insurance and includes loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security.".

SEC. 246. SECONDARY FINANCING BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OF SOLAR ENERGY AND ENERGY CONSERVING IMPROVEMENT LOANS.

Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph: 12 USC 1717.

"(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit made for energy conserving improvements and solar energy systems described in the last paragraph of section 2(a) of the National Housing Act, whether or not insured under such section. To be eligible for purchase, any such loan not so insured may be secured as required by the corporation.". 12 USC 1703.

SEC. 247. LOAN INSURANCE FOR ENERGY CONSERVING IMPROVEMENTS AND SOLAR ENERGY SYSTEMS IN MULTIFAMILY PROJECTS UNDER SECTION 241 OF THE NATIONAL HOUSING ACT.

12 USC 1715z-6.

Section 241 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of this Act), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act), and for purchasing or installing (or both) individual utility meters in a multifamily housing project without regard to whether the project is covered by a mortgage under this Act.

"(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

"(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

"(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 236 or financed with a below market interest rate mortgage insured under section 221(d)(3) of this Act, 100 percent of any such loss may be insured; 12 USC 1715z-1, 1715*l*.

"(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

"(D) have a maturity satisfactory to the Secretary;

"(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

"(F) be secured in such manner as the Secretary may require;

"(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

"(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

"(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

"(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.".

SEC. 248. INCREASE IN MORTGAGE LIMITS TO COVER COSTS OF SOLAR ENERGY SYSTEMS.

(a) ONE- TO FOUR-FAMILY HOUSING.—Section 203(b)(2) of the National Housing Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

12 USC 1709.

12 USC 1703.

(b) MULTIFAMILY HOUSING.—Section 207(c)(3) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein.".

12 USC 1713.

(c) FARMERS HOME ADMINISTRATION AUTHORITY.—Section 501 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

42 USC 1471.

"(f) With respect to any limitation on the amount of any loan which may be made, insured, or guaranteed under this title for the purchase of a dwelling unit, the Secretary may increase such amount by up to 20 percent if such increase is necessary to account for the increased cost of the dwelling unit due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of the National Housing Act) therein.".

PART 4—MISCELLANEOUS

SEC. 251. ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

(a) PUBLIC HOUSING.—Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new sentence at the end thereof: "In addition to any other authority to enter into annual contribution contracts under this subsection, the Secretary may, subject to approval in appropriation Acts, enter into such contracts aggregating not more than $10,000,000 per annum for financing the purchase and installation of energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act) in existing low-income housing projects, other than projects assisted under section 8, which the Secretary determines have the greatest need for such improvements based on the energy consumption of the projects and the amount of such consumption which can be reduced by such improvements.".

42 USC 1437c.

42 USC 1437f.

(b) GRANTS.—(1) The Secretary of Housing and Urban Development is authorized to make grants to finance energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 2(a) of the National Housing Act to projects which are financed with loans under section 202 of the Housing Act of 1959, or which are subject to mortgages insured under section 221(d)(3) or section 236 of the National Housing Act. The Secretary shall make assistance available under this subsection on a priority basis to those projects which are in financial difficulty as a result of high energy costs. In carrying out the program authorized by this subsection, the Secretary shall issue regulations requiring that any grant made under

42 USC 8231.

12 USC 1701q.

12 USC 1715l, 1715z–1.

this subsection shall be made only on the condition that the recipient of such grant shall take steps (prescribed by the Secretary) to assure that the benefits derived from such grants in terms of lower energy costs shall accure to tenants in the form of lower rentals or to the Federal Government in the form of a lower operating subsidy if such a subsidy is being paid to such recipient.

(2) The Secretary shall establish minimum standards for energy conserving improvements to multifamily dwelling units to be assisted under this subsection.

(3) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $25,000,000.

SEC. 252. ENERGY CONSERVING STANDARDS FOR NEWLY CONSTRUCTED RESIDENTIAL HOUSING INSURED BY FEDERAL HOUSING ADMINISTRATION OR ASSISTED BY FARMERS HOME ADMINISTRATION.

(a) Federal Housing Administration Standards.—Section 526 of the National Housing Act is amended by inserting the following new sentence at the end thereof: "Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction, until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective. Such requirements shall be implemented as soon as practicable after the date of enactment of this sentence.". 12 USC 1735f-4. 42 USC 6801 note.

(b) Farmers Home Administration Standards.—Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof: 12 USC 1731.

"MINIMUM PROPERTY STANDARDS FOR ENERGY CONSERVATION

"Sec. 529. To the maximum extent feasible, the Secretary of Agriculture shall promote the use of energy saving techniques through minimum property standards established by such Secretary for newly constructed residential housing assisted under this title. Such property standards shall, insofar as is practicable, be consistent with the standards established pursuant to section 526 of the National Housing Act and shall incorporate the energy performance requirements developed pursuant to such section. Such property standards shall be implemented as soon as practicable after the date of enactment of this section.". 42 USC 1490i.

SEC. 253. RESIDENTIAL ENERGY EFFICIENCY STANDARDS STUDY.

(a) General Authority.—The Secretary of Housing and Urban Development (hereinafter in this section referred to as the "Secretary") shall, in coordination with the Secretary of Agriculture, the Secretary of the Treasury, the Administrator of Veterans' Affairs, the Secretary of Energy, and such other representatives of Federal, State, and local governments as the Secretary shall designate, conduct a study, utilizing the services of the National Institute of Building Sciences pursuant to appropriate contractual arrangements, for the purpose of determining the need for, the feasibility of, and the problems of requiring, by mandatory Federal action, that all residential dwelling units meet applicable energy efficient standards. The subjects to be examined shall include, but not be limited to, mandatory notification to purchasers, and policies to prohibit exchange or sale, of properties which do not conform to such standards. 42 USC 8232.

(b) Specific Factors.—In conducting such study, the Secretary shall consider at least the following factors—

(1) the extent to which such requirement would protect a prospective purchaser from the uncertainty of not knowing the energy efficiency of the property he proposes to purchase;

(2) the extent to which such requirement would contribute to the Nation's energy conservation goals;

(3) the extent to which such a requirement would affect the real estate, home building, and mortgage banking industries;

(4) the sanctions which might be necessary to make such a requirement effective and the administrative impediments there might be to enforcement of such sanctions;

(5) the possible impact on sellers and purchasers as a result of the implementation of mandatory Federal actions, taking into account the experience of the Federal Government in imposing mandatory requirements concerning the purchase and sale of real property as occurred under the Real Estate Settlement Procedures Act of 1974 and the Federal Disaster Protection Act of 1973; 12 USC 2601 note. 42 USC 4001 note.

(6) an analysis of the effect of such a requirement on the economy as a whole and on the Nation's security as compared to the impact on the credit and housing markets caused by such a requirement;

(7) the effect of such a requirement on availability of credit in the housing industry;

(8) the extent to which the imposition of mandatory Federal requirements would temporarily reduce the number of residential dwellings available for sale and the resulting effect of such mandatory actions on the price of those remaining dwelling units eligible for sale; and

(9) the possible uncertainty, during the period of developing the standards, as to what standards might be imposed and any resulting effect on major housing rehabilitation efforts and voluntary efforts for energy conservation.

(c) COMMENTS AND FINDINGS BY SECRETARY OF ENERGY.—The Secretary shall incorporate into such study comments by the Secretary of Energy on the effects on the economy as a whole and on the Nation's security which may result from the requirement described in subsection (a) as compared to the impact on the credit and housing markets likely to be caused by such a requirement. In addition, the Secretary shall incorporate into such study the following findings by the Secretary of Energy:

(1) the savings in energy costs resulting from the requirement described in subsection (a) throughout the estimated remaining useful life of the existing residential buildings to which such requirement would apply; and

(2) the total cost per barrel of oil equivalent, in obtaining the energy savings likely to result from such requirement, computed for each class of existing residential buildings to which such requirement would apply.

(d) REPORT DATE.—The Secretary shall report, no later than one year after the date of enactment of this section, to both Houses of the Congress with regard to the findings made as a result of such study along with any recommendations for legislative proposals which the Secretary determines should be enacted with respect to the subject of such study.

SEC. 254. WEATHERIZATION STUDY.

The President shall conduct a study which shall monitor the weatherization activities authorized by this Act and amendments made 42 USC 8233.

thereby and those weatherization activities undertaken, independently of this Act and such amendments. The President shall report to the Congress within one year from the date of enactment of this Act, and annually thereafter, concerning—

(1) the extent of progress being made through weatherization activities toward the achievement of national energy conservation goals;

(2) adequacy and costs of materials necessary for weatherization activities; and

(3) the need for and desirability of modifying weatherization activities authorized by this Act, and amendments made thereby and of extending such activities to a broader range of income groups than are being assisted under this Act and such amendments.

SEC. 255. AUTHORIZATION FOR APPROPRIATIONS FOR NEW BUILDING PERFORMANCE STANDARDS GRANTS.

42 USC 6836.

Section 307(b) of the Energy Conservation Standards for New Buildings Act of 1976 is amended to read as follows:

"(b) There is authorized to be appropriated, for the purpose of carrying out this section, the following amounts—

"(1) for the fiscal year ending September 30, 1977, not to exceed $5,000,000;

"(2) for the fiscal year ending September 30, 1978, not to exceed $10,000,000; and

"(3) for the fiscal year ending September 30, 1979, not to exceed $10,000,000.

Any amount appropriated pursuant to this subsection shall remain available until expended.".

TITLE III—ENERGY CONSERVATION PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENTS AND PUBLIC CARE INSTITUTIONS

PART 1—SCHOOLS AND HOSPITALS

SEC. 301. STATEMENT OF FINDINGS AND PURPOSES.

42 USC 6371 note.

(a) Findings.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) schools and hospitals are major consumers of energy, and have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in schools and hospitals through the implementation of energy conservation maintenance and operating procedures and the installation of energy conservation measures; and

(4) public and nonprofit schools and hospitals in many instances need financial assistance in order to make the necessary improvements to achieve energy conservation.

Grants.

(b) Purpose.—It is the purpose of this part to authorize grants to States and to public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring, and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

SEC. 302. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) Amendment to Title III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"Part G—Energy Conservation Program for Schools and Hospitals

"definitions

"Sec. 391. For the purposes of this part— 42 USC 6371.

"(1) The term 'building' means any structure the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"(2) The term 'energy conservation measure' means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

"(A) insulation of the building structure and systems within the building;

"(B) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and-coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications.

"(C) automatic energy control systems;

"(D) equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

"(E) solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

"(F) solar water heating systems;

"(G) furnace or utility plant and distribution system modifications including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system,

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights, and

"(iv) utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

"(H) caulking and weatherstripping;

"(I) replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility (unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary);

"(J) energy recovery systems;

"(K) cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

"(L) such other measures as the Secretary identifies by rule for purposes of this part; and

"(M) such other measures as a grant applicant shows will save a substantial amount of energy and as are identified in an energy audit prescribed pursuant to section 365(e)(2).

"(3) The term 'hospital' means a public or nonprofit institution which is—

"(A) a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and

"(B) duly authorized to provide hospital services under the laws of the State in which it is situated.

"(4) The term 'hospital facilities' means buildings housing a hospital and related facilities, including laboratories, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954.

26 USC 501.

"(6) The term 'school' means a public or nonprofit institution which—

"(A) provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

"(B)(i) provides, and is legally authorized to provide a program of education beyond secondary education, on a day or residential basis;

"(ii) admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

"(iii) is accredited by a nationally recognized accrediting agency or association; and

"(iv) provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the requirements of clauses (i), (ii), and (iii) and which provides such a program;

"(C) provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (i), (ii), and (iii) of subparagraph (B); or

"(D) is a local educational agency.

"(7) The term 'local education agency' means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"(8) The term 'school facilities' means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"(9) The term 'State' means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(10) The term 'State energy agency' means the State agency responsible for developing State energy conservation plans pursuant to section 362 of this Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit a State plan under section 394 of this part.

42 USC 6322.

(11) The term 'State school facilities agency' means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this paragraph.

"(12) The term 'State hospital facilities agency' means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this paragraph.

"(13) The term 'energy audit' means a determination of the energy consumption characteristics of a building which—

"(A) identifies the type, size, and rate of energy consumption of such building and the major energy using systems of such building;

"(B) determines appropriate energy conservation maintenance and operating procedures; and

"(C) indicates the need, if any, for the acquisition and installation of energy conservation measures.

"(14) The term 'preliminary energy audit' means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption and major energy-using systems of such building.

"(15) The term 'energy conservation project' means—

"(A) an undertaking to acquire and to install one or more energy conservation measures in school or hospital facilities and

"(B) technical assistance in connection with any such undertaking and technical assistance as described in paragraph (17)(A).

"(16) The term 'energy conservation project costs' includes only costs incurred in the design, acquisition, construction, and installation of energy conservation measures and technical assistance costs.

"(17) The term 'technical assistance' means assistance, under rules promulgated by the Secretary, to States, schools, and hospitals—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification of maintenance and operating procedures in a building, or (ii) the acquisition and installation of one or more specified energy conservation measures in such building, or (iii) both, and

"(B) the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in such building.

"(18) The term 'technical assistance costs' means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel (or both such types of personnel) necessary for providing technical assistance.

"(19) The term 'energy conservation maintenance and operating procedure' means modification or modifications in the maintenance and operations of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"(20) The term 'Secretary' means the Secretary of Energy or his designee.

"(21) The term 'Governor' means the chief executive officer of a State or his designee.

"GUIDELINES

42 USC 6371a. "SEC. 392. (a) The Secretary shall, by rule, not later than 60 days after the date of enactment of this part—

"(1) prescribe guidelines for the conduct of preliminary energy audits, including a description of the type, number, and distribution of preliminary energy audits of school and hospital facilities that will provide a reasonably accurate evaluation of the energy conservation needs of all such facilities in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of enactment of this part, prescribe guidelines for State plans for the implementation of energy conservation projects in schools and hospitals. The guidelines shall include—

"(1) a description of the factors which the State energy agency may consider in determining which energy conservation projects will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals,

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to implement energy conservation projects, and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this section may be revised from time to time after notice and opportunity for comment.

"(d) The Secretary shall, by rule prescribe criteria for determining schools and hospitals which are in a class of severe hardship. Such criteria shall take into account climate, fuel costs, fuel availability, ability to provide the non-Federal share of the costs, and such other factors that he deems appropriate.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

42 USC 6371b. "SEC. 393. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of guidelines under section 392(a) for grants to conduct preliminary energy audits and energy audits of school facilities and hospital facilities in such State under this part.

"(b) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting preliminary energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(1). If a State does not conduct preliminary energy audits within two years after the date of the enactment of this part, the Secretary may conduct such audits within such State.

"(c) Upon application under subsection (a) the Secretary may make grants to States for purposes of conducting energy audits of school facilities and hospital facilities under this part in accordance with the guidelines prescribed under section 392(a)(2).

"(d) If a State without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary the funds allocated for purposes of this section shall be added to the funds available for energy conservation projects for such State and shall be in addition to amounts otherwise available for such purposes.

"(e)(1) Except as provided in paragraph (2), amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or any energy audit.

(2) Upon the request of the Governor, the Secretary may make grants to a State for up to 100 percent of the costs of any preliminary energy audits and energy audits, subject to the requirements of section 398(a)(3).

"STATE PLANS

"SEC. 394. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 392, or such longer period as the Secretary may, for good cause, allow, a State plan under this section for such State. Such plan shall include— 42 USC 6371c.

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed under section 392(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures and installation of energy conservation measures in the schools and hospitals in such State,

"(2) a recommendation as to the types of energy conservation projects considered appropriate for schools and hospitals in such State, together with an estimate of the costs of carrying out such projects in each year for which funds are appropriated.

"(3) a program for identifying persons qualified to carry out energy conservation projects,

"(4) procedures to insure that funds will be allocated among eligible applicants for energy conservation projects within such State, including procedures—

"(A) to insure that funds will be allocated on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, and

"(B) to insure that equitable consideration is given to all eligible public or nonprofit institutions regardless of size and type of ownership;

"(5) a statement of the extent to which, and by which methods, such State will encourage utilization of solar space heating, cooling, and electric systems and solar water heating systems where appropriate,

"(6) procedures to assure that all assistance under this part in such State will be expended in compliance with the requirements of an approved State plan for such State, and in compliance with the requirements of this part:

"(7) procedures to insure implementation of energy conserving maintenance and operating procedures in those facilities for which projects are proposed; and

"(8) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant, State, local, or other funds.

"(b) The Secretary shall review and approve or disapprove each State plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90-day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"(c)(1) If a State plan has not been approved under this section within 2 years and 90 days after the enactment of this part, or within 90 days after the completion of the preliminary audits under section 393(a), whichever is later, the Secretary may take such action as necessary to develop and implement such a State plan and to carry out the functions which would otherwise be carried out under this part by the State energy agency, State school facilities agency, and State hospital facilities agency, in order that the energy conservation program for schools and hospitals may be implemented in such State.

"(2) Notwithstanding any other provision contained in this section, a State may, at any time, submit a proposed State plan for such State under this section. The Secretary shall approve or disapprove such plan not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a) and is not inconsistent with any plan developed and implemented by the Secretary under paragraph (1), the Secretary shall approve the plan and withdraw any such plan developed and implemented by the Secretary.

"APPLICATIONS FOR FINANCIAL ASSISTANCE

42 USC 6371d.

"SEC. 395. (a) Applications of States, schools, and hospitals for financial assistance under this part for energy conservation projects shall be made not more than once for any fiscal year. Schools and hospitals applying for such financial assistance shall submit their applications to the State energy agency and the State energy agency shall make a single submittal to the Secretary, containing all applications which comply with the State plan.

"(b) Applications for financial assistance under this part for energy conservation projects shall contain, or shall be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of energy conservation projects proposed to be funded within the State during the fiscal year for which such application is made, and such information concerning expected expenditures as the Secretary may, by rule, require.

"(c)(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

"(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

"(A) related State programs for educational facilities in such State, and

"(B) State health plans under section 1524(c)(2) and 1603 of the Public Health Service Act, and shall be coordinated through the review mechanisms required under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act.

42 USC 300m-3, 300o-2.

42 USC 300m-2, 1320a-1.

"(d) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 394. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

"(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

"GRANTS FOR PROJECT COSTS AND TECHNICAL ASSISTANCE

"SEC. 396. (a) The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 395.

42 USC 6371e.

"(b)(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project.

"(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 392(d). Grants made under this paragraph shall be from the funds provided under section 398(a)(2).

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 398.

"(d) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

"(e) No grant made under this part to a school which is a local educational agency may be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6371f.

"SEC. 397. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits pursuant to section 393, there is authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(b) For the purpose of making energy conservation project grants pursuant to section 396, there is authorized to be appropriated not to exceed $180,000,000 for the fiscal year ending September 30, 1978, $295,000,000 for fiscal year ending September 30, 1979, and $400,000,000 for the fiscal year ending September 30, 1980, such funds to remain available until expended. Of the amounts appropriated under this subsection for each of the following fiscal years not more than the following percentage may be used for purposes of technical assistance:

Fiscal year ending:	Percentage
September 30, 1978	30
September 30, 1979	15
September 30, 1980	5

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the three consecutive fiscal year periods ending September 30, 1980, such funds to remain available until expended.

"ALLOCATION OF GRANTS

42 USC 6371g.

"SEC. 398. (a)(1) Except as otherwise provided in subsection (b), the Secretary shall allocate 90 percent of the amounts made available under section 397(b) in any year for purposes of making energy conservation project grants pursuant to section 396 as follows:

"(A) Eighty percent of amounts made available under section 397(b) shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

"(B) Ten percent of amounts made available under section 397(b) shall be allocated among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

"(2) The Secretary shall allocate 10 percent of the amounts made available under section 397(b) in any year for purposes of making grants as provided under section 396(b)(2) in excess of the 50 percent limitation contained in section 396(b)(1).

"(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 393(e)(2), the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

"(c) Not later than 60 days after the date of enactment of this Act, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"(e) Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 399. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part. 42 USC 6371h.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

"RECORDS

"SEC. 400. (a) Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.". 42 USC 6371i.

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART G—ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS

"Sec. 391. Definitions.
"Sec. 392. Guidelines.
"Sec. 393. Preliminary energy audits and energy audits.
"Sec. 394. State plans.
"Sec. 395. Applications for financial assistance.
"Sec. 396. Grants for project costs and technical assistance.
"Sec. 397. Authorization of appropriations.
"Sec. 398. Allocation of grants.
"Sec. 399. Administration; annual reports.
"Sec. 400. Records.".

42 USC 6371 note, 6372 note.

(c) Severability.—If any provision of this title or the application thereof to any person or circumstances be held invalid, the provisions of other sections of this title and their application to other persons or circumstances shall not be affected thereby.

SEC. 303. TECHNICAL AMENDMENTS.

42 USC 300k-2.

(a) Section 1502.—Section 1502 of the Public Health Service Act is amended by adding at the end thereof the following new paragraph:

"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy.".

42 USC 300n-1.

(b) Section 1532(b)(2).—Section 1532(b)(2) of the Public Health Service Act is amended by deleting the period after "made" and inserting in lieu thereof: ", or in the case of non-substantive reviews, provision for a shortened review period.".

(c) Section 1532(c).—Section 1532(c) of the Public Health Service Act is amended by deleting the comma in paragraph (9)(A) after "construction" and inserting in lieu thereof: ", including the costs and methods of energy provision," and by adding at the end thereof the following new paragraph:

"(10) The special circumstances of health service institutions and the need for conserving energy.".

SEC. 304. CROSS REFERENCE.

40 USC 276a note.
Post, p. 3254.

For provisions relating to application of Davis-Bacon Act to this part, see section 312.

PART 2—UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

SEC. 310. STATEMENT OF FINDINGS AND PURPOSES.

42 USC 6372 note.

(a) Findings.—The Congress finds that—

(1) the Nation's nonrenewable energy resources are being rapidly depleted;

(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

(b) Purpose.—It is the purpose of this part to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

SEC. 311. AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) Amendment to Title III.—Title III of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new part:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"DEFINITIONS

"SEC. 400A. For purposes of this part— 42 USC 6372.

"(1) The terms 'hospital', 'State', 'school', 'Governor', 'State energy agency', 'energy conservation measure', 'energy conservation maintenance and operating procedure', 'preliminary energy audit', 'technical assistance costs', 'energy audit' and 'Secretary' have the meanings provided in section 391.

"(2) The term 'unit of local government' means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 412 of the Energy Conservation and Production Act) which governing body performs substantial governmental functions. 42 USC 6862.

"(3) The term 'building' has the meaning provided in section 391 except that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

"(4) The term 'public care institution' means a public or nonprofit institution which owns—

"(A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 1633 of the Public Health Service Act, or 42 USC 3005-3.

"(B) a residential child care center.

"(5) The term 'public or nonprofit institution' means an institution owned and operated by—

"(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

"(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954. 26 USC 501.

"(6) The term 'technical assistance program costs' means the costs of carrying out a technical assistance program.

"(7) The term 'technical assistance' means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

"(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or

"(B) the planning or administration of such specialized studies.

"GUIDELINES AND RULES

"SEC. 400B. (a) The Secretary shall, by rule, not later than sixty days after the date of enactment of this part— 42 USC 6372a.

"(1) prescribe guidelines for the conduct of the preliminary energy audits for buildings owned by units of local government and public care institutions, including a description of the type, number and distribution of preliminary energy audits of such buildings that will provide a reasonably accurate evaluation of the energy conservation needs of all such buildings in each State, and

"(2) prescribe guidelines for the conduct of energy audits.

"(b) The Secretary shall, by rule, not later than 90 days after the date of the enactment of this part, prescribe guidelines for State plans for the implementation of technical assistance programs for buildings owned by units of local government and public care institutions. The guidelines shall include—

"(1) a description of the factors to be considered in determining which technical assistance programs will be given priority in making grants pursuant to this part, including such factors as cost, energy consumption, energy savings, and energy conservation goals;

"(2) a description of the suggested criteria to be used in establishing a State program to identify persons qualified to undertake technical assistance work; and

"(3) a description of the types of energy conservation measures deemed appropriate for each region of the Nation.

"(c) Guidelines prescribed under this part may be revised from time to time after notice and opportunity for comment.

"PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

42 USC 6372b.

"SEC. 400C. (a) The Governor of any State may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct preliminary energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(b) Upon application under subsection (a), the Secretary may make grants to States to assist in conducting preliminary energy audits under this part for buildings owned by units of local government and public care institutions. Such audits shall be conducted in accordance with the guidelines prescribed under section 400B(a)(1).

"(c) The Governor of any State, unit of local government or public care institution may apply to the Secretary at such time as the Secretary may specify after promulgation of the guidelines under section 400B(a) for grants to conduct energy audits of buildings owned by units of local government and public care institutions in such State under this part.

"(d) Upon application under subsection (c) the Secretary may make grants to States, units of local government, and public care institutions for purposes of conducting energy audits of facilities under this part in accordance with the guidelines prescribed under section 400B(a)(2).

"(e) If a State, unit of local government, or public care institution, without the use of financial assistance under this section, conducts preliminary energy audits or energy audits which comply with the guidelines prescribed by the Secretary or which are approved by the Secretary, the funds allocated for purposes of this section shall be added to the funds available for technical assistance programs for such State, and shall be in addition to amounts otherwise available for such purpose.

"(f) Amounts made available under this section (together with any other amounts made available from other Federal sources) may not be used to pay more than 50 percent of the costs of any preliminary energy audit or energy audit.

"STATE PLANS

"SEC. 400D. (a) The Secretary shall invite the State energy agency of each State to submit, within 90 days after the effective date of the guidelines prescribed pursuant to section 400B, or such longer period as the Secretary may, for good cause, allow, a proposed State plan under this section for such State. Such plan shall include— 42 USC 6372c.

"(1) the results of preliminary energy audits conducted in accordance with the guidelines prescribed pursuant to section 400B(a)(1), and an estimate of the energy savings that may result from the modification of maintenance and operating procedures in buildings owned by units of local government and public care institutions,

"(2) a recommendation as to the types of technical assistance programs considered appropriate for buildings owned by units of local government and public care institutions in such State, together with an estimate of the costs of carrying out such programs;

"(3) a program for identifying persons qualified to carry out technical assistance programs,

"(4) procedures for the coordination among technical assistance programs within any State and for coordination of programs authorized under this part with other State energy conservation programs,

"(5) a description of the policies and procedures to be followed in the allocation of funds among eligible applicants for technical assistance within such State, including procedures to insure that funds will be allocated among eligible applicants on the basis of relative need and including recommendations as to how priorities should be established between buildings owned by units of local government and public care institutions, and among competing proposals taking into account such factors as cost, energy consumption, and energy savings;

"(6) procedures to assure that all grants for technical assistance provided under this part are expended in compliance with the requirements of an approved State plan for such State and in compliance with the requirements of this part (including requirements contained in rules promulgated under this part); and

"(7) policies and procedures designed to assure that financial assistance provided under this part in such State will be used to supplement, and not to supplant State, local, or other funds.

"(b) Each State plan submitted under this section shall be reviewed and approved or disapproved by the Secretary not later than 60 days after receipt by the Secretary. If such plan meets the requirements of subsection (a), the Secretary shall approve the plan. If a State plan submitted within the 90 day period specified in subsection (a) has not been disapproved within the 60-day period following its receipt by the Secretary, such plan shall be treated as approved by the Secretary. A State energy agency may submit a new or amended plan at any time after the submission of the original plan if the agency obtains the consent of the Secretary.

"APPLICATIONS FOR GRANTS FOR TECHNICAL ASSISTANCE

42 USC 6372d.

"SEC. 400E. (a) Applications of units of local government and public care institutions for grants for technical assistance under this part shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with the State plan.

"(b) Applications for grants for technical assistance under this part shall contain or be accompanied by, such information as the Secretary may reasonably require, including the results of energy audits which comply with guidelines under this part. The annual submittal to the Secretary by the State energy agency under subsection (a) shall include a listing and description of technical assistance proposed to be funded under this part within the State during the fiscal year for which such application is made, and such information concerning expenditures as the Secretary may, by rule, require.

"(c) The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and the requirements of the applicable State plan approved under section 400D. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide be subject to approval in the same manner as the original application. All or any portions of an application under this section may be disapproved to the extent that funds are not available under this part.

"(d) Whenever the Secretary after reasonable notice and opportunity for hearing to any unit of local government or public care institution receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the unit of local government or public care institution that further assistance will not be made available to such unit of local government or public care institution under this part until he is satisfied that there is no longer any failure to comply. Until he is so satisfied, no further assistance shall be made to such unit of local government or public care institution under this part.

"GRANTS FOR TECHNICAL ASSISTANCE

42 USC 6372e.

"SEC. 400F. (a) The Secretary may make grants to States and to units of local government and public care institutions in payment of technical assistance program costs for buildings owned by units of local government and public care institutions the applications for which have been approved under section 400E.

"(b) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of technical assistance program costs.

"(c) Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 400H.

"(d) The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 400G. (a) For the purpose of making grants to States to conduct preliminary energy audits and energy audits under this part there is authorized to be appropriated not to exceed $7,500,000 for the fiscal year ending September 30, 1978, and $7,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended. 42 USC 6372f.

"(b) For the purpose of making technical assistance grants under this part to States and to units of local government and public care institutions, there is hereby authorized to be appropriated not to exceed $17,500,000 for the fiscal year ending September 30, 1978, and $32,500,000 for the fiscal year ending September 30, 1979, such funds to remain available until expended.

"(c) For the expenses of the Secretary in administering the provisions of this part, there are hereby authorized to be appropriated such sums as may be necessary for each fiscal year in the two consecutive fiscal year periods ending September 30, 1979, such funds to remain available until expended.

"ALLOCATION OF GRANTS

"SEC. 400H. (a) Grants made under this part shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate. 42 USC 6372g.

"(b) The total amount allocated to any State under subsection (a) in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a). Except for the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants in each State which has an approved State plan under this part.

"ADMINISTRATION; ANNUAL REPORTS

"SEC. 400I. (a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part. 42 USC 6372h.

"(b) The Secretary shall, within one year after the date of the enactment of this part and annually thereafter while funds are available under this part, submit to the Congress a detailed report of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such report shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out, with funds allocated, and an estimate of the energy savings, if any, achieved. Report to Congress.

"RECORDS

"SEC. 400J. Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.". 42 USC 6372i.

(b) TABLE OF CONTENTS.—The table of contents for such title III is amended by inserting the following at the end thereof:

"PART H—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

"Sec. 400A. Definitions.
"Sec. 400B. Guidelines and rules.
"Sec. 400C. Preliminary energy audits and energy audits.
"Sec. 400D. State plans.
"Sec. 400E. Applications for grants for technical assistance.
"Sec. 400F. Grants for technical assistance.
"Sec. 400G. Authorization of appropriations.
"Sec. 400H. Allocation of grants.
"Sec. 400I. Administration; annual reports.
"Sec. 400J. Records.".

42 USC 6371j. **SEC 312. APPLICATION OF DAVIS-BACON ACT.**

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is $5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 31, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

TITLE IV—ENERGY EFFICIENCY OF CERTAIN PRODUCTS AND PROCESSES

PART 1—ENERGY EFFICIENCY STANDARDS FOR AUTOMOBILES

15 USC 2006. **SEC. 401. FUEL ECONOMY INFORMATION.**

(a) AMENDMENT TO SECTION 506.—(1) Section 506(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(c)) is amended by adding at the end thereof the following:

"(3) As used in this section, the term 'automobile' includes any automobile with a gross vehicle weight rating of 8,500 pounds or less, notwithstanding any lack of determination required of the Secretary under section 501(1)(B) (ii) or (iii).".

(2) Section 506(c)(2) of such Act (15 U.S.C. 2006(c)(2)) is amended by inserting before the period the following: "(taking into account paragraph (3) of this subsection)".

15 USC 2006 note. (b) RULE OF CONSTRUCTION.—The amendment made by this section shall not be construed to affect the authority in section 506 of the Motor Vehicle Information and Cost Savings Act to require labels or other information for fuel economy for automobiles rated in excess of 8,500 pounds gross vehicle weight.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for automobiles manufactured in model years after model year 1979.

SEC. 402. CIVIL PENALTIES RELATING TO AUTOMOBILE FUEL EFFICIENCY.

Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended by adding at the end thereof the following new subsections:

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount per tenth of a mile per gallon which would be used to calculate the civil penalty under subsection (b)(1) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the civil penalty which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher penalty may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of civil penalty will not result in substantial deleterious impacts on the economy of the United States or of any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of civil penalty will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the civil penalty under subsection (b)(1) be less than $5.00 or more than $10.00.

"(3) Any rule prescribed under paragraph (1) shall be effective for the later of—

"(A) automobile model years beginning after model year 1981, or

"(B) automobile model years beginning at least 18 months after such rule becomes final.

"(4) Any rule prescribed under paragraph (1) shall provide that the amount per tenth of a mile per gallon used to calculate a credit under subsection (a)(3) for any model year shall equal the amount per tenth of a mile per gallon applicable to the calculation of the civil penalty for which the credit is allowed.

Publication in Federal Register.

"(e)(1)(A) After the Secretary of Transportation develops a proposed rule pursuant to subsection (d), he shall publish such proposed rule in the Federal Register, together with a statement of the basis for such rule, and provide copies thereof to the manufacturers. He shall then provide a period of public comment on such rule of at least 45 days for written comments thereon. A copy of any such proposed rule shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public concerning such proposed rule.

"(B) After such written comment period, any interested person, (including the Federal Trade Commission) shall be afforded an opportunity to present oral data, views, and arguments at a public hearing concerning such proposal. At such hearing such interested person (including the Federal Trade Commission) shall have an opportunity to question—

"(i) other interested persons who make oral presentations,

"(ii) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or in the consideration thereof, and

"(iii) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation;

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(C) A rule subject to this subsection may not be issued except on consideration of the whole record supported by, and in accordance with, the reliable, probative, and substantial evidence.

"(D) A transcript shall be kept of any such public hearing made in accordance with this section and such transcripts and written comments shall be available to the public at the cost of reproduction.

Publication in Federal Register.

"(2) If any final rule is prescribed by the Secretary after such public comment period under subsection (d) it shall be published in the Federal Register, together with each of the findings required by subsection (d).

Petition, filing.

"(3)(A) Any person aggrieved by any final rule under subsection (d) may at any time before the 60th day after the date such rule is published under paragraph (2) file a petition with the United States Court of Appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(B) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule may be affirmed unless supported by substantial evidence.

"(C) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) In the case of any information which is provided the Secretary or the court during the consideration and review of any such rule and which is determined to be confidential by the Secretary pursuant to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, any disclosure of such information by an officer or employee of the United States or of any department or agency thereof, except in an in camera proceeding by the Secretary or the court, shall be deemed a violation of section 1905 of title 18, United States Code."

15 USC 796.

SEC. 403. DISCLOSURE IN LABELING.

(a) DISCLOSURE.—Section 506(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)) is amended by striking out "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) containing in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax, and".

(b) Time and Manner of Disclosure.—Section 506(a)(3) of such Act (15 U.S.C. 2006(a)(3)) is amended by inserting after the first sentence thereof the following new sentence: "The time and manner by which the statement referred to in paragraph (1)(C) must be included on any label may be prescribed so as to take into account any special circumstances or characteristics.".

15 USC 2006 note.

(c) Effective Date.—The amendments made by this section shall not take effect unless and until there is in effect a Federal tax imposed with respect to automobile fuel efficiency which is enacted during the Ninety-fifth Congress.

SEC. 404. STUDY.

Report to Congress.
15 USC 2006 note.

Within six months after the date of the enactment of this Act, the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation and after an opportunity for public comment, shall submit to the Congress a detailed report on the degree to which fuel economy estimates required to be used in new car fuel economy labeling and in the annual fuel economy mileage guide required under section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006) provide a realistic estimate of average fuel economy likely to be achieved by the driving public. Such report shall include such recommendations as the Environmental Protection Agency deems appropriate based on report and written findings or conclusions stated therein, other than recommendations concerning changes or alterations in the testing and calculation procedures and methods measuring fuel economy under such Act as utilized by the Environmental Protection Agency for model year 1975 passenger automobiles. Nothing in this section shall authorize such agency to make any changes or alterations in such procedures and methods in effect for such model year for measuring automobile fuel economy.

PART 2—ENERGY EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

SEC. 421. TEST PROCEDURES.

(a) Prescription of Test Procedures.—Section 323(a)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(4)) is amended—

(1) in subparagraph (A), by striking out "(A) Except as provided in paragraph (6), the" and inserting in lieu thereof "The";

(2) in subparagraph (A), by adding at the end thereof the following: "Except as provided in paragraph (6), such test procedures shall be prescribed not later than January 31, 1978."; and

(3) by striking out subparagraph (B).

(b) Extensions.—Section 323(a)(6) of such Act (42 U.S.C. 6293(a)(6)) is amended to read as follows:

Publication in Federal Register.

"(6)(A) The Secretary may delay the prescription of test procedures under paragraph (4) for a type of covered product (or class thereof) if he determines that he cannot, within the applicable time period, prescribe test procedures applicable to such type (or class) which meet the requirements of subsection (b), and he submits to the Congress a report of such determination together with the reasons therefor, and also publishes such determination (and reasons) in the Federal Register. In any such case, he shall prescribe such test procedures as soon as practicable, but in no event later than 90 days after the date specified in paragraph (4).

Publication in Federal Register.

"(B) The Secretary is not required to publish and prescribe test procedures under paragraphs (3) and (4) for a type of covered product (or class thereof) if he determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b) and publishes such determination in the Federal Register, together with the reasons therefor. For purposes of section 327, a determination under this subparagraph with respect to any type (or class) of covered product, while effective, shall have the same effect as would a standard prescribed for such type (or class) under section 325.".

(c) Reevaluations of Test Procedures, Etc.—Section 323(a) of such Act (42 U.S.C. 6293(a)) is amended by adding at the end thereof the following:

"(7) (A) In the case of—

"(i) any test procedure prescribed under this subsection; or

"(ii) any determination under paragraph (6) that a test procedure cannot be developed which meets the requirements of subsection (b);

the Secretary shall, not later than 3 years after the date of the enactment of this paragraph (and from time to time thereafter), conduct a reevaluation and, on the basis of such reevaluation, shall determine if such test procedure should be amended or such determination should be rescinded. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered products involved.

Publication in Federal Register.

"(B) If the Secretary determines under subparagraph (A) that—

"(i) a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments, or

"(ii) a determination under paragraph (6) should be rescinded,

he shall promptly publish notice thereof in the Federal Register, and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.".

(d) Energy Efficiency Representations.—Section 323(c) of such Act (42 U.S.C. 6293(c)) is amended—

(1) by striking out "90 days" and inserting in lieu thereof "180 days";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "(c)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Commission with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Commission).".

SEC. 422. ENERGY EFFICIENCY STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY EFFICIENCY STANDARDS

"SEC. 325. (a)(1) The Secretary shall, by rule, prescribe an energy efficiency standard for each type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).

"(2) The Secretary may, by rule, prescribe an energy efficiency standard for any type (or class) of covered products of a type specified in paragraph (14) of section 322(a), if he determines, for the purposes of this section, that—

"(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-calendar-month period ending before such determination;

"(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-calendar-month period;

"(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible to attain and is economically justified.

Publication in Federal Register.

Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a list of those types (and classes) of covered products which he considers may be subject to standards authorized to be prescribed under this paragraph. The Secretary may revise such list from time to time thereafter.

"(b) No standard for a type (or class) of covered products shall be prescribed pursuant to subsection (a) if—

"(1) a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of products, or

"(2) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 327, a determination under paragraph (2) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class) under this section.

"(c) Energy efficiency standards for each type (or class) of covered products prescribed under this section shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. Such standards may be phased in, over a period not in excess of 5 years, through the establishment of intermediate standards, as determined by the Secretary.

"(d) Before determining whether a standard is economically justified under subsection (c), the Secretary, after receiving any views and comments furnished with respect to the proposed standard under section 336, shall determine that the benefits of the standard exceed its burdens based, to the greatest extent practicable, on a weighing of the following factors:

"(1) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

"(2) the savings in operating costs throughout the estimated average life of the covered products in the type (or class), compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard,

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard,

"(4) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

"(5) the impact of any lessening of competition determined in writing by the Attorney General that is likely to result from the imposition of the standard,

"(6) the need of the Nation to conserve energy, and

"(7) any other factors the Secretary considers relevant.

Publication in Federal Register.

For purposes of paragraph (5), the Attorney General shall, not later than 60 days after the publication of a proposed rule prescribing an energy efficiency standard, make a determination of the impact, if any, from any lessening of competition likely to result from such standard and transmit such determination in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

"(e)(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any rule prescribing an energy efficiency standard under this section for any period which does not extend beyond the date which is 24 months after the date such rule is prescribed, if the Secretary finds that the annual gross revenues to such manufacturer for the preceding 12-month period from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000. In making such finding in the case of any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy efficiency standard established under this section unless he makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition.

"(f)(1) A rule prescribing an energy efficiency standard for a type (or class) of covered products shall specify a level of energy efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary, in his discretion, determines that covered products within such group—

"(A) consume a different kind of energy from that consumed by other covered products within such type (or class), or

"(B) have a capacity or other performance-related feature which other products within such type (or class) do not have,

justifying a higher or lower standard from that which applies (or will apply) to other products within such type (or class). In determining under this paragraph whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as he deems appropriate.

"(2) Any rule prescribing a higher or lower level of energy efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

"(g) In prescribing energy efficiency standards under this section, the Secretary shall give priority to the establishment of energy efficiency standards for types of products (or classes thereof) specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a).

Publication in Federal Register.

"(h)(1) Not later than 5 years after prescribing an energy efficiency standard under this section (and from time to time thereafter), the Secretary shall—

"(A) conduct a reevaluation in order to determine whether such standard should be amended in any manner, and

"(B) make, and publish in the Federal Register, such determination.

In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments with respect to the type (or class) of covered products involved, and the economic impact of the standard.

"(2) If the Secretary determines under paragraph (1) that a standard should be amended, he shall promptly publish a proposed rule incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days.

"(i) Any energy efficiency standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary shall (A) publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule is likely to apply, and (B) invite interested persons to submit, within 45 days after the date of publication of such advance notice, written presentations of data, views, and arguments relevant to establishing such an energy efficiency standard.

"(2) An advance notice of proposed rulemaking under paragraph (1) shall be published by the Secretary—

"(A) in the case of types of covered products (or classes thereof) of the types specified in paragraphs (1), (2), (4), (5), (6), (7), (9), (12), and (13) of section 322(a), not later than 30 days after a test procedure with respect to that type of covered products (or class thereof) has been prescribed, or 45 days after the date of the enactment of this subparagraph, whichever is later; and

"(B) in the case of types of covered products (or classes thereof) specified in paragraphs (3), (8), (10), and (11), of section 322(a), not later than 30 days after a test procedure with respect to that type (or class) of covered products has been prescribed, or one year after the date of the enactment of this subparagraph, whichever is later.

"(3) A proposed rule which prescribes an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of advance notice of proposed rulemaking for such type (or class). The Secretary shall determine the maximum improvement in energy efficiency that is technologically feasible for each type (or class) of covered products in prescribing such standard and if such standard is not designed to achieve such efficiency, the Secretary shall state in the proposed rule the reasons therefor. After the publication of such proposed rulemaking, the Secretary shall afford interested persons, in accordance with section 336, an opportunity to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (d)),

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

"(D) whether such rule should prescribe a level of energy efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) to be subject to such standard.

"(4) A rule prescribing an energy efficiency standard for a type (or class) of covered products may not be published earlier than 60 days after the date of publication of the proposed rule under this section for such type (or class). Such rule shall be published as soon as practicable after such 60-day period, but in no event later than 2 years after publication of the advance notice. Such rule shall take effect not earlier than 180 days after the date of its publication in the Federal Register. Such rule (or any amendment thereto) shall not apply to any covered products the manufacture of which was completed before the effective date of the rule or amendment as the case may be.

Publication in Federal Register.

"(j) An energy efficiency standard prescribed under this section shall include test procedures prescribed in accordance with section 323, and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency specified in such standard.".

SEC. 423. ASSESSMENT OF CIVIL PENALTIES.

Section 333 of the Energy Policy and Conservation Act (42 U.S.C. 6303) is amended by adding at the end thereof the following new subsection:

"(d)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

"(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

"(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"(5)(A) Notwithstanding the provisions of title 28, United States Code, or section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate. 42 USC 7192.

"(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

"(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection. 42 USC 7172.

"(6) For purposes of applying the preceding provisions of this subsection in the case of the assessment of a penalty by the Commission for a violation of paragraphs (1) and (2) of section 332, references in such provisions to 'Secretary' and 'Department of Energy' shall be considered to be references to the 'Commission'."

SEC. 424. EFFECT OF STANDARDS ON OTHER LAWS.

(a) Interim Preemption.—Section 327(b) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)) is amended to read as follows:

"(b)(1) If a State regulation is prescribed which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2) or (b)(2), then any person subject to such regulation may file a petition with the Secretary requesting that the Secretary prescribe a rule under this subsection which supersedes such State regulation in whole or in part. The Secretary, after consideration of the petition, the views of the affected State, and the comments of any interested person, shall issue such requested rule only if the Secretary finds (and publishes such finding) that—

"(A) there is no significant State or local interest sufficient to justify such State regulation; and

"(B) such State regulation unduly burdens interstate commerce.

"(2) If a State regulation is prescribed after January 1, 1978, which establishes an energy efficiency standard or other requirement respecting energy use or energy efficiency of a type (or class) of covered products and which is not superseded by subsection (a)(2), then such State regulation is superseded. Notwithstanding the requirement of the preceding sentence, such State may file a petition with the Secretary requesting a rule that such State regulation is not superseded pursuant to this paragraph. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds there is a significant State or local interest to justify such State regulations; except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

"(3) Notwithstanding subsection (a)(2), any State prescribing a State regulation which provides an energy efficiency standard or other requirement respecting energy use or energy efficiency for any type (or class) of covered products for which a Federal energy efficiency standard is applicable may file a petition with the Secretary requesting a rule that such regulation not be superseded. The Secretary, after consideration of the petition and the comments of interested persons, shall prescribe such rule only if he finds (and publishes such finding) that—

"(A) there is a significant State or local interest to justify such State regulation; and

"(B) such State regulation contains a more stringent energy efficiency standard than such Federal standard;

except that the Secretary may not prescribe such rule if he finds that such State regulation would unduly burden interstate commerce.

Publication in Federal Register.

"(4) The Secretary shall give notice of any petition filed under this subsection and afford interested persons a reasonable opportunity to make written comments thereon. The Secretary, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of such denial and the reasons for such denial.

"(5) The requirement of paragraph (2) shall not continue in effect after July 1, 1980, in the case of any type (or class) of covered products specified in paragraphs (1) through (13) of section 322(a).".

(b) PREEMPTION OF CERTAIN STATE REGULATIONS.—Paragraph (2) of section 327(a) of such Act (42 U.S.C. 6297(a)) is amended by striking out "similar requirement" and inserting in lieu thereof "other requirement".

SEC. 425. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENT TO SECTION 323(a).—Section 323(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6293(a)(3)) is amended—

(1) by striking out "Except as provided in paragraph (6), the" and inserting in lieu thereof "The"; and

(2) by striking out the last sentence thereof.

(b) AMENDMENTS TO SECTION 324(a).—Section 324(a) of such Act (42 U.S.C. 6294(a)) is amended—

(1) in paragraph (1), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible."; and

(2) in paragraph (2), by striking out "(or class thereof)" and all that follows and inserting in lieu thereof: "(or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.".

(c) AMENDMENTS TO SECTION 324(c).—Section 324(c)(5) of such Act (42 U.S.C. 6294(c)(5)) is amended by inserting "including instructions for the maintenance, use, or repair of the covered product," after "energy consumption," in the matter following subparagraph (C).

(d) AMENDMENTS TO SECTION 326.—(1) Section 326 of such Act (42 U.S.C. 6296) is amended by adding at the end thereof the following:

"(d) For purposes of carrying out this part, the Secretary may require, under authority otherwise available to him under this part or other provisions of law administered by him, each manufacturer of covered products to submit such information or reports of any kind or nature directly to the Secretary with respect to energy efficiency of such covered products, and with respect to the economic impact of any proposed energy efficiency standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy efficiency standards for such products and to insure compliance with the requirements of this part. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.". 15 USC 796.

(2) Section 326(b)(1) of such Act (42 U.S.C. 6296(b)(1)) is amended to read as follows:

"(b)(1) Each manufacturer of a covered product to which a rule under section 324 applies shall notify the Secretary or the Commission—

"(A) not later than 60 days after the date such rule takes effect, of the models in current production (and starting serial numbers of those models) to which such rule applies; and

"(B) prior to commencement of production, of all models subsequently produced (and starting serial numbers of those models) to which such rule applies.".

(3) Paragraph (3) of section 326(b) of such Act (42 U.S.C. 6296(b)(3)) is amended to read as follows:

"(3) When requested—

"(A) by the Secretary for purposes of ascertaining whether a product subject to a standard prescribed under section 325 is in compliance with that standard, or

"(B) by the Commission for purposes of ascertaining whether the information set out on a label of a product, as required under section 324, is accurate,

each manufacturer of such a product shall supply at his expense a reasonable number of such covered products to any laboratory designated by the Secretary or the Commission, as the case may be. Any reasonable charge levied by the laboratory for such testing shall be borne by the United States, if and to the extent provided in appropriation Acts."

(e) Amendments to Section 333.—(1) Section 333(a) of such Act (42 U.S.C. 6303(a)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

(2) Section 333(c) of such Act (42 U.S.C. 6303(c)) is amended—

(A) by striking out "section 323(d)(2)" and inserting in lieu thereof "section 323(c)"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof ", except to the extent that such violation is prohibited under the provisions of section 332(a)(1), in which case such provisions shall apply.".

(f) Amendments to Section 335.—Section 335(a) of such Act (42 U.S.C. 6305(a)) is amended—

(1) by inserting after "or rule," in the last sentence thereof the following: "or order such Federal agency to perform such act or duty,", and

(2) by striking out the parenthetical clauses in paragraphs (1) and (2) thereof.

(g) Amendments to Section 336.—(1) Section 336(a)(1) of such Act (42 U.S.C. 6306(a)(1)) is amended by striking out "(1)", and by striking out "325(a) (1), (2), or (3)" in the first sentence thereof and inserting "325(a)" in lieu thereof.

(2) Section 336(a)(1)(B) of such Act (42 U.S.C. 6306(a)(1)(B)) is amended by striking out "paragraph (1), (2), or (3) of" in the first sentence thereof.

(3) Section 336(a) of such Act (42 U.S.C. 6306(a)) is amended—

(A) by redesignating subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (B) as paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (2), respectively;

(B) in paragraph (2)(B), as redesignated under subparagraph (A), by striking out "subparagraph (A)" and inserting "paragraph (1)" in lieu thereof; and

(C) in the last sentence thereof, by striking out "paragraph" and inserting "subsection" in lieu thereof.

(4) Sections 336(b) (1) and (2) of such Act (42 U.S.C. 6306(b) (1) and (2)) are each amended by striking out "section 323 or 324" and inserting in lieu thereof "section 323, 324, or 325".

(5) Section 336(b) of such Act (42 U.S.C. 6306(b)) is amended by striking out paragraph (5).

(h) Amendment to Section 338.—Section 338 of such Act (42 U.S.C. 6308) is amended by adding at the end thereof the following new sentence: "Each such report shall specify the actions undertaken by the Secretary in carrying out this part during the period covered by such report, and those actions which the Secretary was required to take under this part during such period but which were not taken, together with the reasons therefor.".

SEC. 426. APPROPRIATIONS AUTHORIZATION.

(a) Section 339(a) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out "and" at the end of paragraph (2); and

(2) by striking out paragraph (3) and by inserting in lieu thereof the following:

"(3) $3,300,000 for fiscal year 1978; and

"(4) $10,000,000 for fiscal year 1979.

Amounts authorized for such purposes under paragraph (3) shall be in addition to amounts otherwise authorized and appropriated for such purposes.".

(b) Section 339(b) of the Energy Policy and Conservation Act (42 U.S.C. 6309) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof the following "; and"; and

(3) by adding at the end thereof the following:

"(3) $2,000,000 for fiscal year 1979.".

SEC. 427. EFFECTS OF OTHER LAWS ON PROCEDURES.

Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended by adding at the end thereof the following:

"(c)(1) Titles IV and V of the Department of Energy Organization Act (42 U.S.C. 7191 et seq.) shall not apply with respect to the procedures under this part.

"(2) The procedures applicable under this part shall not—

"(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein), or

"(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this part, and declaring that such provision supersedes, in whole or in part, the procedures of this part.".

PART 3—ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT

SEC. 441. ENERGY EFFICIENCY OF INDUSTRIAL EQUIPMENT.

(a) In General.—Title III of the Energy Policy and Conservation Act, relating to improving energy efficiency, is amended by redesignating parts C, D, and E as parts D, E, and F, respectively, and by inserting after part B the following new part: 42 USC 6321 *et seq.*

"Part C—Certain Industrial Equipment

"DEFINITIONS

"Sec. 340. For purposes of this part— 42 USC 6311.

"(1) The term 'covered equipment' means one of the following types of industrial equipment:

"(A) Electric motors and pumps.

"(B) Any other type of industrial equipment which the Secretary classifies as covered equipment under section 341(b).

"(2)(A) The term 'industrial equipment' means any article of equipment referred to in subparagraph (B) of a type—

"(i) which in operation consumes, or is designed to consume, energy;

"(ii) which, to any significant extent, is distributed in commerce for industrial or commercial use; and

"(iii) which is not a 'covered product' as defined in section 321(a)(2), other than a component of a covered product with respect to which there is in effect a determination under section 341(c);

without regard to whether such article is in fact distributed in commerce for industrial or commercial use.

"(B) The types of equipment referred to in this subparagraph (in addition to electric motors and pumps) are as follows:

"(i) compressors;
"(ii) fans;
"(iii) blowers;
"(iv) refrigeration equipment;
"(v) air conditioning equipment;
"(vi) electric lights;
"(vii) electrolytic equipment;
"(viii) electric arc equipment;
"(ix) steam boilers;
"(x) ovens;
"(xi) furnaces;
"(xii) kilns;
"(xiii) evaporators; and
"(xiv) dryers.

"(3) the term 'energy efficiency' means the ratio of the useful output of services from an article of industrial equipment to the energy use by such article, determined in accordance with test procedures under section 343.

"(4) The term 'energy use' means the quantity of energy directly consumed by an article of industrial equipment at the point of use, determined in accordance with test procedures established under section 343.

"(5) The term 'manufacturer' means any person who manufactures industrial equipment.

"(6) The term 'label' may include any printed matter determined appropriate by the Secretary.

"(7) The terms 'energy', 'manufacture', 'import', 'importation', 'consumer product', 'distribute in commerce', 'distribution in commerce', and 'commerce' have the same meaning as is given such terms in section 321.

"PURPOSES AND COVERAGE

42 USC 6312.

"SEC. 341. (a) It is the purpose of this part to improve the efficiency of electric motors and pumps and certain other industrial equipment in order to conserve the energy resources of the Nation.

"(b) The Secretary may, by rule, include a type of industrial equipment as covered equipment if he determines that to do so is necessary to carry out the purposes of this part.

"(c) The Secretary may, by rule, include as industrial equipment articles which are component parts of consumer products, if he determines that—

"(1) such articles are, to a significant extent, distributed in commerce other than as component parts for consumer products; and

"(2) such articles meet the requirements of section 340(2)(A) (other than clauses (ii) and (iii))."

"STUDY OF ELECTRIC MOTORS AND PUMPS AND OTHER INDUSTRIAL EQUIPMENT

"SEC. 342. (a) Not later than 18 months after the date of the enactment of this section, the Secretary shall— 42 USC 6313.

"(1) evaluate electric motors and pumps to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purpose of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes of electric motors and pumps determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency; and

"(2) submit a report to the Congress on the results of such evaluation, together with such recommendations for legislation as he considers appropriate.

"(b)(1) The Secretary may conduct an evaluation of any type of industrial equipment (other than electric motors or pumps) to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purposes of this part; and

"(B) determine the practicability and effects of requiring all or part of the classes determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency.

"(2) After the completion of an evaluation under paragraph (1), the Secretary shall submit to the Congress a report on such evaluation, together with such recommendations for legislation as he considers appropriate.

"(c)(1) In conducting an evaluation under subsection (a) or (b), the Secretary shall, with respect to equipment covered by the evaluation—

"(A) identify significant factors that determine energy efficiency, including hours of operation per year and average power consumption at normal use and at full capacity;

"(B) estimate current and future equipment population profiles;

"(C) estimate the potential for improvements in energy efficiency that in the Secretary's judgment are both technologically feasible and economically justified;

"(D) estimate likely increases or decreases in energy efficiency and total energy savings likely to result from implementation of—

"(i) labeling rules, and

"(ii) energy efficiency standards; and

"(E) examine such other factors as the Secretary determines appropriate.

"(2) Before submitting a report to the Congress under subsection (a) or (b), the Secretary shall— Publication in Federal Register.

"(A) make available to interested persons copies of the proposed report, publish in the Federal Register notice of availability of such report, and afford interested persons an opportunity (of not less than 60 days' duration) to present written comments; and

"(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

"(3) Any standard classification of industrial equipment established under subsection (a) or (b) shall—

"(A) define the equipment contained therein; and

"(B) characterize the equipment and its general use.

"TEST PROCEDURES

42 USC 6314.

"SEC. 343. (a)(1) If the Secretary has conducted an evaluation of a class of covered equipment under section 342, he may prescribe test procedures for such class in accordance with the following provisions of this section.

"(2) Test procedures prescribed in accordance with this section shall be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle (as determined by the Secretary), and shall not be unduly burdensome to conduct.

"(3) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average-use cycle (as determined by the Secretary), and from representative average unit costs of the energy needed to operate such equipment during such cycle. The Secretary shall provide information to manufacturers of covered equipment respecting representative average unit costs of energy.

Publication in Federal Register.

"(b) Before prescribing any final test procedures under this section, the Secretary shall—

"(1) publish proposed test procedures in the Federal Register; and

"(2) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures.

"(d)(1) The Secretary shall, not later than 3 years after the date of prescribing a test procedure under this section (and from time to time thereafter), conduct a reevaluation of such procedure and, on the basis of such reevaluation, shall determine if such test procedure should be amended. In conducting such reevaluation, the Secretary shall take into account such information as he deems relevant, including technological developments relating to the energy efficiency of the type (or class) of covered equipment involved.

"(2) If the Secretary determines under paragraph (1) that a test procedure should be amended, he shall promptly publish in the Federal Register proposed test procedures incorporating such amendments and afford interested persons an opportunity to present oral and written data, views, and arguments. Such comment period shall not be less than 45 days' duration.

"(d)(1) Effective 180 days after a test procedure rule applicable to any covered equipment is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including any representation on a label), or

"(B) in any broadcast advertisement,

respecting the energy consumption of such equipment or cost of energy consumed by such equipment, unless such equipment has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

"(2) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (1) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if he finds that the requirements of paragraph (1) would impose on such petitioner an undue hardship (as determined by the Secretary).

"(e) The Secretary may direct the National Bureau of Standards to provide such assistance as the Secretary deems necessary to carry out his responsibilities under this part, including the development of test procedures.

"LABELING REQUIREMENTS

"SEC. 344. (a) If the Secretary has prescribed test procedures under section 343 for any class of covered equipment, he may prescribe a labeling rule applicable to such class of covered equipment in accordance with the following provisions of this section.

Rule.
42 USC 6315.

"(b) A labeling rule prescribed in accordance with this section shall require that each article of covered equipment which is in the type (or class) of industrial equipment to which such rule applies, discloses by label, the energy efficiency of such article, determined in accordance with test procedures under section 343. Such rule may also require that such disclosure include the estimated operating costs and energy use, determined in accordance with test procedures under section 343.

"(c) A rule prescribed in accordance with this section may include such requirements as the Secretary determines are likely to assist purchasers in making purchasing decisions, including—

"(1) requirements and directions for display of any label,

"(2) requirements for including on any label, or separately attaching to, or shipping with, the covered equipment, such additional information relating to energy efficiency, energy use, and other measures of energy consumption, including instructions for the maintenance, use, or repair of the covered equipment, as the Secretary determines necessary to provide adequate information to purchasers, and

"(3) requirements that printed matter which is displayed or distributed at the point of sale of such equipment shall disclose such information as may be required under this section to be disclosed on the label of such equipment.

"(d) Before prescribing any labeling rules for a type (or class) of covered equipment, the Secretary shall consult with, and obtain the written views of, the Federal Trade Commission with respect to such rules. The Federal Trade Commission shall promptly provide such written views upon the request of the Secretary.

"(e)(1) Before prescribing any labeling rules under this section, the Secretary shall—

Publication in Federal Register.

"(A) publish proposed labeling rules in the Federal Register, and

"(B) afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed rules.

"(2) A labeling rule prescribed under this section shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Secretary determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

"(f) The Secretary shall not promulgate labeling rules for any class of industrial equipment unless he has determined that—

"(1) labeling in accordance with this section is technologically and economically feasible with respect to such class;

"(2) significant energy savings will likely result from such labeling; and

"(3) labeling in accordance with this section is likely to assist consumers in making purchasing decisions.

"(g) When requested by the Secretary, any manufacturer of industrial equipment to which a rule under this section applies shall supply at the manufacturer's expense a reasonable number of articles of such covered equipment to any laboratory or testing facility designated by the Secretary, or permit representatives of such laboratory or facility to test such equipment at the site where it is located, for purposes of ascertaining whether the information set out on the label, or otherwise required to be disclosed, as required under this section, is accurate. Any reasonable charge levied by the laboratory or facility for such testing shall be borne by the United States, if and to the extent provided in appropriations Acts.

"(h) A labeling rule under this section shall not apply to any article of covered equipment the manufacture of which was completed before the effective date of such rule.

"(i) Until such time as labeling rules under this section take effect with respect to a type (or class) of covered equipment, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type (or class) of covered equipment. 15 USC 58.

"ADMINISTRATION, PENALTIES, AND ENFORCEMENT

42 USC 6316. "SEC. 345. (a) The provisions of section 326 (a), (b), and (d) and sections 328 through 336 shall apply with respect to this part to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of this part—

"(1) references to sections 323 and 324 shall be considered as references to sections 343 and 344, respectively;

"(2) references to 'this part' shall be treated as referring to part C;

"(3) the term 'equipment' shall be substituted for the term 'product'; and

"(4) the term 'Secretary' shall be substituted for 'Commission' each place it appears (other than in section 333(c)).

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6317. "SEC. 346. (a) There are hereby authorized to be appropriated to carry out the purposes of this subpart—

"(1) $2,000,000 for fiscal year 1978; and

"(2) $3,000,000 for fiscal year 1979.".

(b) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by striking out "PART C", "PART D", and "PART E" in the items relating to parts C, D, and E of title III of such Act and inserting in lieu thereof "PART D", "PART E", and "PART F", respectively, and

(2) by inserting after the item relating to section 339 the following:

"PART C—CERTAIN INDUSTRIAL EQUIPMENT

"Sec. 340. Definitions.
"Sec. 341. Purpose and coverage.
"Sec. 342. Study of electric motors and pumps and other industrial equipment.
"Sec. 343. Test procedures.
"Sec. 344. Labeling requirements.
"Sec. 345. Administration, penalties, and enforcement.
"Sec. 346. Authorization of appropriations.".

PART 4—ENERGY EFFICIENCY BY USE OF RECOVERED MATERIALS

SEC. 461. USE OF RECOVERED MATERIALS.

(a) FINDINGS.—The Congress finds that—

42 USC 6344a note.

(1) significant amounts of industrial energy and other scarce natural resources are conserved in certain major energy-consuming industries where recovered materials are utilized in their manufacturing operations;

(2) substantial additional volumes of industrial energy and other scarce natural resources will be conserved in future years if such major energy-consuming industries increase to the maximum feasible extent utilization of recovered materials in their manufacturing operations;

(3) millions of tons of recoverable materials which could be used by such industries are needlessly wasted and buried each year at great cost to State and local governments, while technology and methods exist whereby those materials could readily be made available for utilization; and

(4) the recovery and utilization of such recovered materials can substantially reduce the dependence of the United States on foreign natural resources and reduce the growing deficit in its balance of payments.

(b) PURPOSES.—The purposes of this subtitle are to conserve valuable energy and scarce natural resources, promote the national security, and protect the environment by—

(1) directing that targets for increased industrial utilization of recovered materials be established for certain major energy-consuming industries;

(2) creating procedures whereby such industries may cooperate with the Federal Government in the establishment and achievement of such targets; and

(3) providing incentives for increased industrial utilization of energy-saving recovered materials in such major energy-consuming industries.

(c) TARGETS FOR USE OF RECOVERED MATERIALS.—Part E of title III of the Energy Policy and Conservation Act, as redesignated by section 441(b)(2) of this Act, is amended by inserting the following new section after section 374:

"TARGETS FOR USE OF RECOVERED MATERIALS

"Energy-saving recovered materials."
42 USC 6344a.
42 USC 6901 note.

"SEC. 374A. (a) For purposes of this section, the term 'energy-saving recovered materials' means aluminum, copper, lead, zinc, iron, steel, paper and allied paper products, textiles, and rubber, recovered from solid waste, as defined in the Solid Waste Disposal Act.

"(b) Within one year after the date of the enactment of this section, the Secretary shall set targets for increased utilization of energy-saving recovered materials for each of the following industries: the metals and metal products industries, the paper and allied products industries, the textile mill products industry, and the rubber industry. Such targets—

Publication in Federal Register.

"(1) shall be based on the best available information,

"(2) shall be established at levels which represent the maximum feasible increase in utilization of energy-saving recovered materials each such industry can achieve progressively by January 1, 1987, and

"(3) shall be published in the Federal Register, together with a statement of the basis and justification for such targets.

"(c) In establishing targets under subsection (b), the Secretary shall consult with the Administrator of the Environmental Protection Agency and with each of the major industries subject to this section, and shall consider—

"(1) the technological and economic ability of each such industry progressively to increase its utilization of energy-saving recovered materials by January 1, 1987, and

"(2) all actions taken or which before such date could be taken by each such industry, or by Federal, State, or local governments to increase that industry's utilization of energy-saving recovered materials.

"(d) Any target established under subsection (b) may be modified if the Secretary—

"(1) determines that such target cannot reasonably be attained, or that it should require greater use of energy-saving recovered materials, and

"(2) publishes such determination in the Federal Register, together with a basis and justification for such modification.

Report, submission.

"(e) Within each of the industries subject to this section, the Secretary shall notify each corporation which is a major energy consumer (within the meaning of section 373) of the requirements of this section. Not later than January 1, 1979, the chief executive officer of each such corporation (or individual designated by such officer) shall include in his report to the Secretary under section 375, or if section 376(g) applies, prepare and transmit a report which includes, a statement of the volume of energy-saving recovered materials that such corporation is using in each of its manufacturing operations located in the United States and what plans, if any, the corporation has to increase the utilization of such materials in those operations in each of the next ten years. Not later than January 1, 1980, and annually thereafter, each such corporation shall include in such report a statement of the progress it has made to increase its utilization of energy-saving recovered materials to reach targets established under this section by the Secretary for its industry. Such reports shall contain such information as the Secretary determines is necessary to measure progress toward meeting the industry targets established under this section.

"(f) The Secretary shall include in his annual report under section 375(e) a report on the industrial energy and natural resource conservation and recovery program established under this section. Each such report shall include—

"(1) a summary of the progress made toward the achievement of targets set by the Secretary under this section; and

"(2) a summary of the progress made toward meeting such targets since the date of publication of the previous report, if any.".

(d) Technical Amendments.—(1) Section 376 of such Act is amended by— 42 USC 6346.

(A) inserting "or 374A" after "section 372" in subsection (b), and

(B) inserting "or any target under section 374A" after "374" in subsections (c) and (f).

(2) The table of contents of such Act is amended by inserting after the item relating to section 374 the following new item:

"374A. Targets for use of recovered materials.".

TITLE V—FEDERAL ENERGY INITIATIVE

PART 1—EXECUTIVE AGENCY CONSERVATION PLAN

SEC. 501. CONSERVATION PLAN AUTHORIZATION.

Section 381 of the Energy Policy and Conservation Act (42 U.S.C. 6361) is amended by adding at the end thereof the following new subsections:

"(d) The plan developed by the President pursuant to subsection (a)(2) shall be applicable to Executive agencies as defined in section 105 of title 5, United States Code, and to the United States Postal Service.

"(e) In addition to funds authorized in any other law, there is authorized to be appropriated to the President for fiscal year 1978 not to exceed $25,000,000, and for fiscal year 1979 not to exceed $50,000,000, to carry out the purposes of subsection (a)(2).".

PART 2—DEMONSTRATION OF SOLAR HEATING AND COOLING IN FEDERAL BUILDINGS

SEC. 521. DEFINITIONS.

As used in the part— 42 USC 8241.

(1) The term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of subsection (1) of section 5721 of title 5, United States Code.

(2) The term "Federal building" means any building or other structure owned in whole or part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(3) The term "solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water), or all or part of the needs of such building for hot water.

(4) The term "solar heating and cooling" means the use of solar energy to provide all or part of the heating needs of a Federal building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

(5) The term "solar energy equipment" means equipment for solar heating or solar heating and cooling.

(6) The term "Secretary" means the Secretary of Energy.

SEC. 522. FEDERAL SOLAR PROGRAM.

42 USC 8242.

The Secretary, in consultation with the Administrator of the General Services Administration, shall develop and carry out a program to demonstrate the application to buildings of solar heating and solar heating and cooling technology in Federal buildings.

SEC. 523. DUTIES OF SECRETARY.

42 USC 8243.

(a) DUTIES.—In exercising the authority provided by section 522, the Secretary, in consultation with the Administrator of the General Services Administration, shall—

(1) promulgate, by rule—

(A) requirements under which Federal agencies shall submit proposals for the installation of solar energy equipment in Federal buildings which are under their control and which are selected in accordance with procedures set forth in such rule, and

(B) criteria by which proposals under subparagraph (A) will be evaluated, which criteria shall provide for the inclusion in each proposal of a complete analysis of the present value, as determined by the Secretary, of the costs and benefits of the proposal to the Federal agency, and for the demonstration, to the maximum extent practicable, of innovative and diverse applications to a variety of types of Federal buildings of solar heating and solar heating and cooling technology, and for location of demonstration projects in areas where a private sector market for solar energy equipment is likely to develop;

(2) evaluate in writing each such proposal pursuant to the criteria promulgated pursuant to paragraph (1)(B), and make such evaluation available to the agency and, upon request, to any person;

(3) provide technical and financial assistance by interagency agreement for implementing a proposal evaluated under paragraph (2) and approved by the Secretary; except that such assistance shall be limited to the design, acquisition, construction, and installation of solar energy equipment;

(4) provide, by rule, that Federal agencies report to the Secretary periodically such information as they acquire respecting maintenance and operation of solar energy equipment for which assistance is provided under paragraph (3);

(5) require that a life cycle cost analysis in accordance with part 3 be done for any Federal building for which a proposal is submitted under this section and the results of such analysis be included in such proposal; and

(6) if solar energy equipment for which assistance is to be provided under paragraph (3) is not the minimum life-cycle cost alternative, require the Federal agency involved to submit a report to the Secretary stating the amount by which the life-cycle cost of such equipment exceeds the minimum life-cycle cost.

(b) CONTENTS OF PROPOSALS.—Proposals under paragraph (1)(A) of subsection (a) shall include a list of the specific Federal buildings proposed to be provided with solar energy equipment, the funds necessary for the acquisition and installation of such equipment, the proposed implementation schedule, maintenance costs, the estimated savings in fossil fuels and electricity, the estimated payback time, and such other information as may be required by the Secretary.

(c) INITIAL SUBMISSION OF PROPOSALS.—Under the requirements established under subsection (a)(1)(A), initial proposals for the installation of solar energy equipment in Federal buildings selected under subsection (a)(1)(A) shall be submitted not later than 180 days after the date of promulgation of the rule under subsection (a)(1).

SEC. 524. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8244.

There are authorized to be appropriated to the Secretary through fiscal year ending September 30, 1980, to carry out the purposes of this part not to exceed $100,000,000. Funds so appropriated may be transferred by the Secretary to any Federal agency to the extent necessary to carry out the purposes of section 523(a)(3).

PART 3—ENERGY CONSERVATION AND SOLAR ENERGY IN FEDERAL BUILDINGS

SEC. 541. FINDINGS.

42 USC 8251.

The Congress finds that—

(1) there is an urgent need to promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(2) a shift from dependence on nonrenewable to renewable energy sources would have a beneficial effect on the Nation's overall energy supply;

(3) programs for energy conservation in buildings, along with the use of renewable energy sources, would stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(4) in the construction or renovation of buildings, the cost of energy consumed over the life of such buildings must be considered as well as the initial cost of such construction or renovation; and

(5) the Federal Government, the largest energy consumer in the United States, should be in the forefront in implementing energy conservation measures and in promoting the use of solar heating and cooling and other renewable energy sources.

SEC. 542. POLICY.

42 USC 8252.

It is the policy of the United States that the Federal Government has the opportunity and responsibility, with the participation of industry, to further develop, demonstrate, and promote the use of energy conservation, solar heating and cooling, and other renewable energy sources in Federal buildings.

SEC. 543. PURPOSE.

42 USC 8253.

It is the purpose of this part to promote—

(1) the use of commonly accepted methods to establish and compare the life cycle costs of operating Federal buildings, and the life cycle fuel and energy requirements of such buildings, with and without special features for energy conservation, and

(2) the use of solar heating and cooling and other renewable energy sources in Federal buildings.

SEC. 544. DEFINITIONS.

42 USC 8254.

For purposes of this part—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its useful life, including its fuel and energy costs, determined on the basis of a system-

atic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

(3) The term "preliminary energy audit" means a determination of the energy consumption characteristics of an existing Federal building, including the size, type, rate of energy consumption and major energy using systems of such building and the climate characterizing the region where such building is located.

(4) The term "energy survey" means a procedure to be used in determining energy conservation and cost savings likely to result from appropriate energy conserving maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related fixtures to a Federal building.

(5) The term "Federal building" means any building, structure, or facility which is constructed, renovated or leased or purchased in whole or in part for use by the United States, and which includes a heating system, a cooling system, or both.

(6) The term "construction" means construction and substantial reconstruction or renovation, as determined under rules prescribed by the Secretary.

(7) The term "energy performance target" means a rate of energy consumption which is the minimum practically achievable, taking into account life-cycle cost, by adjusting maintenance and operating procedures, or by modifying a Federal building's equipment or structure, or both.

SEC. 545. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

42 USC 8255.

(a) Establishment of Life Cycle Cost Methods.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

(1) establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings; and

(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established and in conducting preliminary energy audits required by section 547.

(b) Use of Life Cycle Costs.—All new Federal buildings shall be life cycle cost effective as determined in accordance with the methods established under subsection (a). In the design of new Federal buildings, cost evaluation shall be made on the basis of life cycle cost rather than initial cost.

(c) Use in Non-Federal Structures.—The Secretary shall make available to the public information on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

SEC. 546. ENERGY PERFORMANCE TARGETS FOR FEDERAL BUILDINGS.

42 USC 8256.

The Secretary, in consultation with the Administrator of the General Services Administration, the Director of the National Bureau of Standards, and the Director of the Office of Management and Budget, shall establish and publish energy performance targets for Federal buildings, and shall take such actions as may be necessary or appropriate to promote to the maximum extent practicable achievement of such targets by Federal buildings. The performance targets established under the preceding sentence shall be compatible with energy conservation performance standards adopted or developed by the Secretary of Housing and Urban Development for buildings.

SEC. 547. ENERGY AUDITS AND RETROFITTING OF EXISTING FEDERAL BUILDINGS.

(a) AUDITS OF BUILDINGS WITH 30,000 OR MORE SQUARE FEET.—As soon as possible after the date of the enactment of this part, each Federal agency shall conduct, to the maximum extent feasible, a preliminary energy audit, of all Federal buildings under its jurisdiction, occupancy, or control which contain 30,000 or more square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1979.

42 USC 8257.

Report to Congress.

(b) AUDITS OF FEDERAL BUILDINGS WITH 1,000 OR MORE BUT LESS THAN 30,000 SQUARE FEET.—As soon as possible after the completion of the preliminary energy audits required under subsection (a) (and concurrently with such audits to the maximum extent feasible in the case of any agency), each Federal agency shall conduct a preliminary energy audit of all Federal buildings under its jurisdiction, occupancy, or control which contain 1,000 or more but less than 30,000 square feet of floor space, and shall furnish the results of such audit to the Secretary. The Secretary shall submit to the Congress a full report on all preliminary energy audits conducted under this subsection no later than August 15, 1980.

(c) RETROFIT OF FEDERAL BUILDINGS.—(1) Each Federal agency shall, in accordance with this subsection, select from each preliminary energy audit conducted by such agency under subsections (a) and (b) appropriate Federal buildings under its jurisdiction, occupancy, or control for retrofit measures to improve their energy efficiency in general and to minimize their life cycle cost. Such measures shall include, without being limited to, energy conservation measures, measures involving solar technology and other renewable energy resources, and any maintenance and operating procedures and particular energy-related modifications determined appropriate by an energy survey. In selecting the measures to be applied, Federal agencies shall give priority to changes in maintenance and operating procedures over measures requiring substantial structural modification or the installation of equipment.

(2) At least 1 percent of the total gross square floor footage contained in all Federal buildings which are under the jurisdiction, occupancy, or control of Federal agencies, and which are included in a preliminary energy audit conducted by such agencies under subsection (a) and (b) shall be retrofitted by such agencies under paragraph (1) pursuant to actions taken or arrangements made by such agencies during the first full fiscal year beginning after the date of the enactment of this part; and an additional percentage of such total gross square footage equal to at least 1 percentage point higher than the percentage applicable under this paragraph in the preceding year shall be so retrofitted pursuant to actions taken or arrangements made during the second and third such fiscal years, with a view to achieving full compliance with paragraph (3) by the time specified therein.

(3) On or before January 1, 1990, all Federal buildings which are under the jurisdiction, occupancy, or control of any Federal agency shall be the subject of such retrofit measures under paragraph (1) as will assure their minimum life cycle costs.

SEC. 548. LEASED FEDERAL BUILDINGS.

42 USC 8258.

In leasing buildings for its own use or that of another Federal agency, each Federal agency shall give appropriate preference to buildings which use solar heating and cooling equipment or other renewable energy sources or which otherwise minimize life cycle costs.

SEC. 549. BUDGET TREATMENT OF ENERGY CONSERVING IMPROVEMENTS BY FEDERAL AGENCIES.

42 USC 8259.

Each Federal agency, in the preparation and submission of its requests to the Congress for appropriations, and authorizations for appropriations, for any fiscal year beginning after the date of the enactment of this Act, shall specifically set forth and identify in a separate line item or items—

(1) the funds requested for retrofit measures to be undertaken under this part; and

(2) the portion of any other funds requested which represent to the maximum extent practicable the initial costs of construction or renovation attributable to capital equipment for energy conservation or the utilization of solar energy and other renewable energy sources.

SEC. 550. REPORTS.

42 USC 8260.

Each Federal agency shall periodically furnish the Secretary with full and complete information on its activities under this part, and the Secretary shall annually submit to the Congress a comprehensive report on all activities under this part and on the progress made toward achievement of the objectives of this part.

SEC. 551. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8261.

There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for the fiscal year ending September 30, 1979, to enable him to perform the analytical and administrative functions vested in him under this part.

Federal Photovoltaic Utilization Act.

PART 4—FEDERAL PHOTOVOLTAIC UTILIZATION

SEC. 561. SHORT TITLE OF PART.

42 USC 8271 note.

This part may be cited as the "Federal Photovoltaic Utilization Act".

SEC. 562. DEFINITIONS.

42 USC 8271.

For purposes of this part—

(1) The term "Federal facility" means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

(2) The term "Secretary" means the Secretary of Energy.

SEC. 563. PHOTOVOLTAIC ENERGY PROGRAM.

42 USC 8272.

There is hereby established a photovoltaic energy commercialization program for the accelerated procurement and installation of photovoltaic solar electric systems for electric production in Federal facilities.

SEC. 564. PURPOSE OF PROGRAM.

42 USC 8273.

The purpose of the program established by section 563 is to—

(1) accelerate the growth of a commercially viable and competitive industry to make photovoltaic solar electric systems available to the general public as an option in order to reduce national consumption of fossil fuel;

(2) reduce fossil fuel costs to the Federal Government;

(3) stimulate the general use within the Federal Government of methods for the minimization of life cycle costs; and

(4) develop performance data on the program established by section 563.

SEC. 565. ACQUISITION OF SYSTEMS.

42 USC 8274.

The program established by section 563 shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability by the Secretary for their use by Federal agencies. The acquisition of photovoltaic solar electric systems shall be at an annual level substantial enough to allow use of low-cost production techniques by suppliers of such systems. The Secretary is authorized to make such acquisitions through the use of multiyear contracts. Authority under this part to enter into acquisition contracts shall be only to the extent as may be provided in advance in appropriation Acts.

SEC. 566. ADMINISTRATION.

42 USC 8275.
Rules and regulations.
Report to Congress.

The Secretary shall administer the program established under section 563 and shall—

(1) consult with the Secretary of Defense to insure that the installation and purchase of photovoltaic solar electric systems pursuant to this part shall not interfere with defense-related activities;

(2) prescribe such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to this part; and

(3) report annually to the Congress on the status of the program.

SEC. 567. SYSTEM EVALUATION AND PURCHASE PROGRAM.

42 USC 8276.

(a) Program.—The Secretary shall establish, within 60 days after the date of the enactment of this part, a photovoltaic systems evaluation and purchase program to provide such systems as are required by the Federal agencies to carry out this part. In acquiring photovoltaic solar electric systems under this part, the Secretary shall insure that such systems reflect to the maximum extent practicable the most advanced and reliable technologies and shall schedule purchases in a manner which will stimulate the early development of a permanent low-cost private photovoltaic production capability in the United States, and to stimulate the private sector market for photovoltaic power systems. The Secretary shall, subject to the availability of appropriated funds, procure not more than 30 megawatts of photovoltaic solar electric systems during fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(b) Other Procurement.—Nothing in this part shall preclude any Federal agency from directly procuring a photovoltaic solar electric system (in lieu of obtaining one under the program under subsection (a)), except that any such Federal agency shall consult with the Secretary before procuring such a system.

SEC. 568. ADVISORY COMMITTEE.

42 USC 8277.

(a) Establishment.—There is hereby established an advisory committee to assist the Secretary in the establishment and conduct of the programs established under this part.

(b) Membership.—Such committee shall be composed of the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of the Small Business Administration, the chairman of the Federal Trade Commission, the Postmaster General, and such other persons as the Secretary deems necessary. The Secretary shall appoint such other nongovernmental persons to the extent necessary to assure that the membership of the committee will be fairly balanced in terms of the point of view represented and the functions to be performed by the committee.

(c) TERMINATION.—The advisory committee shall terminate October 1, 1981.

SEC. 569. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8278. For the purposes of this part, there is authorized to be appropriated to the Secretary not to exceed $98,000,000 for the period beginning October 1, 1978, and ending September 30, 1981.

TITLE VI—ADDITIONAL ENERGY-RELATED MEASURES

PART 1—INDUSTRIAL ENERGY EFFICIENCY REPORTING

SEC. 601. INDUSTRIAL ENERGY EFFICIENCY REPORTING.

(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—Section 373 of the Energy Policy and Conservation Act (42 U.S.C. 6343) is amended—

(1) in the first sentence by inserting "(a)" before "Within";
(2) by striking out the second sentence thereof; and
(3) by adding at the end thereof the following new subsection:

"(b) Within 90 days after the date of the enactment of this subsection, the Secretary shall identify each corporation which consumes at least one trillion British thermal units of energy per year and which is within a major energy-consuming industry identified under subsection (a).".

(b) REPORTS.—Section 375 of such Act (42 U.S.C. 6345) is amended to read as follows:

"REPORTS

42 USC 6345. "SEC. 375. (a) The chief executive officer (or individual designated by such officer) of each corporation which is identified by the Secretary pursuant to section 373 shall report to the Secretary on an annual basis (as determined by the Secretary) on the progress such corporation has made in improving its energy efficiency. Such report shall contain such information as the Secretary determines is necessary to measure progress toward meeting the energy efficiency improvement target set for the industry of which such corporation is a part, except that the Secretary shall not require such report if such corporation is in an industry which has an adequate voluntary reporting program (as defined by section 376(g)).

"(b) Each report to the Secretary under subsection (a) shall include data aggregated to SIC codes from plant reporting forms in a manner to be determined by the Secretary.

"(c) Each plant shall periodically file a plant reporting form with its corporation at the corporation's headquarters within the United States. Each plant reporting form will be retained by the plant's corporation at its headquarters for at least 5 years. Such forms will be made available to the Secretary for verification purposes upon request, but information from forms made so available shall not be released to the public.

"(d) The Secretary shall prepare, publish, and make available for use in complying with the reporting requirements under subsections (a) and (c), forms which shall be designed in such a way as to avoid imposing on any corporation which is required to submit reports under subsection (a) an undue burden with respect to the corporation or any plant of such corporation.

"(e) The Secretary shall prepare and submit to the Congress and to the President, and shall cause to be published, an annual report on the industrial energy efficiency program established under section 372. Each such report shall include—

Report to Congress and President.

"(1) a summary of the progress made toward the achievement of the industrial energy efficiency improvement targets set by the Secretary,

"(2) a summary of the progress made toward meeting such industrial energy efficiency improvement targets since the date of publication of the previous such report, if any, and

"(3) recommendations to the Congress as to how additional improvements might be achieved.".

(c) Definition of Plant.—Section 371 of such Act (42 U.S.C. 6341) is amended by adding after paragraph (4) the following new paragraphs:

"(5) The term 'plant' means an economic unit at a single physical location where industrial processes are performed, as determined by the Secretary, and may be referred to as a factory, a mill, or an establishment.

"(6) The term 'United States' means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.".

PART 2—STATE ENERGY CONSERVATION PLANS

SEC. 621. STATE ENERGY CONSERVATION PLANS.

Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(d)) is amended—

(1) by striking out "and"; and

(2) by striking out the period and inserting in lieu thereof the following: ", and $50,000,000 for fiscal year 1979.".

SEC. 622. SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.

42 USC 6327.

Section 367(c) of the Energy Policy and Conservation Act is amended by striking out "$40,000,000 for fiscal year 1979" and inserting in lieu thereof "$50,000,000 for fiscal year 1979".

SEC. 623. REPORT ON COORDINATION OF ENERGY CONSERVATION PROGRAMS.

42 USC 6321 note.

Not later than 6 months after the date of the enactment of this section, the Secretary of Energy shall submit to the Congress a report on the coordination of Federal energy conservation programs involving State and local government.

PART 3—MINORITY ECONOMIC IMPACT

SEC. 641. MINORITY ECONOMIC IMPACT.

"(a) ESTABLISHMENT OF OFFICE OF MINORITY ECONOMIC IMPACT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131–7139) is amended by adding at the end thereof the following new section:

"OFFICE OF MINORITY ECONOMIC IMPACT

42 USC 7141. "SEC. 211. (a) There shall be established within the Department an Office of Minority Economic Impact. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Director shall have the duty and responsibility to advise the Secretary on the effect of energy policies, regulations, and other actions of the Department and its components on minorities and minority business enterprises and on ways to insure that minorities are afforded an opportunity to participate fully in the energy programs of the Department.

"(c) The Director shall conduct an ongoing research program, with the assistance of the Administrator of the Energy Information Administration, and such other Federal agencies as the Director determines appropriate, to determine the effects (including the socio-economic and environmental effects) of national energy programs, policies, and regulations of the Department on minorities. In conducting such program, the Director shall, from time to time, develop and recommend to the Secretary policies to assist, where appropriate, such minorities and minority business enterprises concerning such effects. In addition, the Director shall, to the greatest extent practicable—

"(1) determine the average energy consumption and use patterns of minorities relative to other population categories;

"(2) evaluate the percentage of disposable income spent on energy by minorities relative to other population categories; and

"(3) determines how programs, policies, and actions of the Department and its components affect such consumption and use patterns and such income.

"(d) The Director may provide the management any technical assistance he considers appropriate to minority educational institutions and minority business enterprises to enable these enterprises and institutions to participate in the research, development, demonstration, and contract activities of the Department. In carrying out his functions under this section, the Director may enter into contracts, in accordance with section 646 of this Act and other applicable provisions of law, with any person, including minority educational institutions, minority business enterprises, and organizations the primary purpose of which is to assist the development of minority communities. The management and technical assistance may include—

"(1) a national information clearinghouse which will develop and disseminate information on the aspects of energy programs to minority business enterprises, minority educational institutions and other appropriate minority organizations;

"(2) market research, planning economic and business analysis, and feasibility studies to identify and define economic opportunities for minorities in energy research, production, conservation, and development;

"(3) technical assistance programs to encourage, promote, and assist minority business enterprises in establishing and expanding energy-related business opportunities which are located in minority communities and that can provide jobs to workers in such communities; and

"(4) programs to assist minority business enterprises in the commercial application of energy-related technologies.

Financial assistance.

"(e)(1) The Secretary, acting through the Office, may provide financial assistance in the form of loans to any minority business enterprise under such rules as he shall prescribe to assist such enterprises in participating fully in research, development, demonstration, and contract activities of the Department to the extent he considers appropriate. He shall limit the use of financial assistance to providing funds necessary for such enterprises to bid for and obtain contracts or other agreements, and shall limit the amount of the financial assistance to any recipient to not more than 75 percent of such costs.

"(2) The Secretary shall determine the rate of interest on loans under this section in consultation with the Secretary of the Treasury.

"(3) The Secretary shall deposit into the Treasury as miscellaneous receipts amounts received in connection with the repayment and satisfaction of such loans.

"(f) As used in this section, the term—

"(1) 'minority' means any individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent;

"(2) 'minority business enterprise' means a firm, corporation, association, or partnership which is at least 50 percent owned or controlled by a minority or group of minorities; and

"(3) 'minority educational institution' means an educational institution with an enrollment in which a substantial proportion (as determined by the Secretary) of the students are minorities.

"(g) There is authorized to be appropriated to the Secretary to carry out the functions of the Office not to exceed $3,000,000 for fiscal year 1979, not to exceed $5,000,000 for fiscal year 1980, and not to exceed $6,000,000 for fiscal year 1981. Of the amounts so appropriated each fiscal year, not less than 50 percent shall be available for purposes of financial assistance under subsection (e).".

PART 4—CONSERVATION OF NATIONAL COAL RESOURCES

SEC. 661. MAJOR FUEL BURNING STATIONARY SOURCE.

Part A of title I of the Energy Policy and Conservation Act is amended by adding at the end thereof a new section as follows:

42 USC 6215.
42 USC 7428.

"SEC. 107. (a) No Governor of a State may issue any order or rule pursuant to section 125 of the Clean Air Act to any major fuel burning stationary source (or class or category thereof)—

"(1) prohibiting such source from using fuels other than locally or regionally available coal or coal derivatives, or

"(2) requiring such source to enter into a contract (or contracts) for supplies of locally or regionally available coal or coal derivatives.

"(b)(1) The Governor of any State may petition the President to exercise the President's authorities pursuant to section 125 of the Clean Air Act with respect to any major fuel burning stationary source located in such State.

"(2) Any petition under paragraph (1) shall include documentation which could support a finding that significant local or regional economic disruption or unemployment would result from use by such source of—

"(A) coal or coal derivatives other than locally or regionally available coal,

"(B) petroleum products,

"(C) natural gas, or

"(D) any combination of fuels referred to in subparagraphs (A) through (C), to comply with the requirements of a State implementation plan pursuant to section 110 of the Clean Air Act.

42 USC 7412.
Order or rule.

"(c) Within 90 days after the submission of a Governor's petition under subsection (b), the President shall either issue an order or rule pursuant to section 125 of the Clean Air Act or deny such petition, stating in writing his reasons for such denial. In making his determination to issue such an order or rule pursuant to this subsection, the President must find that such order or rule would—

"(1) be consistent with section 125 of the Clean Air Act;

"(2) result in no significant increase in the consumption of energy;

"(3) not subject the ultimate consumer to significantly higher energy costs; and

"(4) not violate any contractual relationship between such source and any supplier or transporter of fuel to such source.

"(d) Nothing in subsection (a) or (b) of this section shall affect the authority of the President or the Secretary of the Department of Energy to allocate coal or coal derivatives under any provision of law.

"(e) The terms 'major fuel burning stationary source (or class or category thereof)' and 'locally or regionally available coal or coal derivatives' shall have the meanings assigned to them for the purposes of section 125 of the Clean Air Act.".

PART 5—STUDIES

SEC. 681. OFF-HIGHWAY MOTOR VEHICLES.

(a) IN GENERAL.—Title III of the Energy Policy and Conservation Act is amended by adding the following new part at the end thereof:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"OFF-HIGHWAY MOTOR VEHICLE CONSERVATION STUDY

42 USC 6373.

"SEC. 385. Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a study of the energy conservation potential of recreational motor vehicles, including, but not limited to, aircraft and motor boats which are designed for recreational use, and shall submit a report to the President and to the Congress containing the results of such study.".

(b) CONFORMING AMENDMENTS.—The table of contents for such Act is amended by inserting after the item relating to part H the following:

"PART I—OFF-HIGHWAY MOTOR VEHICLES

"Sec. 385. Off-Highway motor vehicle conservation study.".

SEC. 682. BICYCLE STUDY.

23 USC 217 note.

(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefit through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

(b) STUDY.—Not more than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants. The Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study.

Report to President and Congress.

SEC. 683. SECOND LAW EFFICIENCY STUDY.

42 USC 6345 note.

(a) STUDY.—(1) The Secretary of Energy, in consultation with the Director of the National Bureau of Standards and such other agencies as he deems necessary, shall conduct a study of the relevance to energy conservation programs of the use of the concept of energy efficiency as being the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task.

(b) REPORT.—A report on the study under subsection (a) shall be submitted to the Congress within 12 months after the date of enactment of this Act. The programs to be covered by such study include—

Report to Congress.

(1) energy conservation programs authorized in the Energy Policy and Conservation Act, the Energy Conservation and Production Act, and this Act;

42 USC 6201 note.
42 USC 6801 note.

(2) appropriate Federal programs in energy research, development, and demonstration.

(c) CONTRACT PROCEDURE.—Any contract in connection with the study or report under this section shall be made by advertising and shall be in accordance with procedures established under the Federal Property and Administrative Services Act.

40 USC 471 note.

PART 6—TECHNICAL AMENDMENTS

SEC. 691. DEFINITION OF ADMINISTRATOR.

(a) IN GENERAL.—Paragraph (1) of section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202(1)) is amended to read as follows:

"(1) The term 'Secretary' means the Secretary of Energy.".

(b) CONFORMING AMENDMENTS.—(1) Section 527 of such Act (42 U.S.C. 6397) is hereby repealed.

(2) Such Act is amended by striking out "Administrator" and "Administrator's" each place they appear (unless the context indicates a reference other than to the Administrator of the Federal Energy Administration) and inserting in lieu thereof "Secretary" or "Secretary's", respectively.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-431 (Comm. on Ways and Means) and No. 95-1751 (Comm. of Conference).

SENATE REPORTS: No. 95-424 (Comm. on Finance) and No. 95-1294 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 18, considered and passed House.
Sept. 13, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; agreed to Senate amendment No. 3 with an amendment.

Vol. 124 (1978): Oct. 9 Senate agreed to conference report.
Oct. 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-620
95th Congress

An Act

To amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges.

Nov. 9, 1978
[H.R. 5146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Powerplant and Industrial Fuel Use Act of 1978.
42 USC 8301 note.
Bobsleds and luges, duty suspension.
19 USC 1202 app.

TITLE I—BOBSLEDS AND LUGES

Sec. 101. Subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

" 734.98	Bobsleds and luges of a kind used in international competition..	Free	Free
734.99	Other..	9% ad val.	45% ad val. ".

Sec. 102. The amendments made by the first section of this title shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this title.

19 USC 1202 note.

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Powerplant and Industrial Fuel Use Act of 1978".

42 USC 8301 note.

(b) Table of Contents.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title; table of contents.
Sec. 102. Findings; statement of purposes.
Sec. 103. Definitions.
Sec. 104. Territorial application.

TITLE II—NEW FACILITIES

Subtitle A—Prohibitions

Sec. 201. New electric powerplants.
Sec. 202. New major fuel-burning installations.

Subtitle B—Exemptions

Sec. 211. Temporary exemptions.
Sec. 212. Permanent exemptions.
Sec. 213. General requirements for exemptions.
Sec. 214. Terms and conditions; compliance plans.

TITLE III—EXISTING FACILITIES

Subtitle A—Prohibitions

Sec. 301. Existing electric powerplants.
Sec. 302. Existing major fuel-burning installations.
Sec. 303. Rules relating to case-by-case and category prohibitions.

TITLE III—EXISTING FACILITIES—Continued

Subtitle B—Exemptions

Sec. 311. Temporary exemptions.
Sec. 312. Permanent exemptions.
Sec. 313. General requirements for exemptions.
Sec. 314. Terms and conditions; compliance plans.

TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

Sec. 401. Authority to prohibit use of natural gas in certain boilers used for space heating.
Sec. 402. Prohibition on use of natural gas for decorative outdoor lighting.
Sec. 403. Conservation in Federal facilities, contracts, and financial assistance programs.
Sec. 404. Emergency authorities.
Sec. 405. Authority to restrict increased use of petroleum by existing powerplants.

TITLE V—SYSTEM COMPLIANCE OPTION

Sec. 501. Electric utility system compliance option.

TITLE VI—FINANCIAL ASSISTANCE

Sec. 601. Assistance to areas impacted by increased coal or uranium production.
Sec. 602. Loans to assist powerplant acquisitions of air pollution control equipment.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

Subtitle A—Procedures

Sec. 701. Administrative procedures.
Sec. 702. Judicial review.

Subtitle B—Information and Reporting

Sec. 711. Information.
Sec. 712. Compliance reports.

Subtitle C—Enforcement

Sec. 721. Notice of violation; other general provisions.
Sec. 722. Criminal penalties.
Sec. 723. Civil penalties.
Sec. 724. Injunctions and other equitable relief.
Sec. 725. Citizen suits.

Subtitle D—Preservation of Contractual Rights

Sec. 731. Preservation of contractual rights.

Subtitle E—Studies

Sec. 741. National coal policy study.
Sec. 742. Coal industry performance and competition study.
Sec. 743. Impact on employees.
Sec. 744. Study of compliance problems of small electric utility systems.
Sec. 745. Emissions monitoring.
Sec. 746. Socioeconomic impacts of increased coal production and other energy development.
Sec. 747. Use of petroleum and natural gas in combustors.

Subtitle F—Appropriations Authorization

Sec. 751. Authorization of appropriations.

Subtitle G—Coordination With Other Provisions of Law

Sec. 761. Effect on environmental requirements.
Sec. 762. Effect of orders under section 2 of ESECA; amendments to ESECA.
Sec. 763. Environmental impact statements under NEPA.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Coal reserves disclosure.
Sec. 802. Coal preparation facilities.
Sec. 803. Railroad rehabilitation for carriage of coal.
Sec. 804. Office of Rail Public Counsel.
Sec. 805. Retroactive application of certain remedial orders.
Sec. 806. Annual report.
Sec. 807. Submission of reports.

TITLE IX—EFFECTIVE DATES

Sec. 901. Effective date.
Sec. 902. Interim petition and consideration for certain exemptions.

SEC. 102. FINDINGS; STATEMENT OF PURPOSES.

(a) Findings.—The Congress finds that— 42 USC 8301.

(1) the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expended use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations; and

(2) the purposes of this Act are furthered in cases in which coal or other alternate fuels are used by electric powerplants and major fuel-burning installations, consistent with applicable environmental requirements, as primary energy sources in lieu of natural gas or petroleum.

(b) Statement of Purposes.—The purpose of this Act, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses, other than electric utility or other industrial or commercial generation of steam or electricity, for which there are no feasible alternative fuels or raw material substitutes;

(3) to encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source;

(4) to the extent permitted by this Act, to encourage the use of synthetic gas derived from coal or other alternate fuels;

(5) to encourage the rehabilitation and upgrading of railroad service and equipment necessary to transport coal to regions or States which can use coal in greater quantities;

(6) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source and to conserve such gas and petroleum for the benefit of present and future generations;

(7) to encourage the modernization or replacement of existing and new electric powerplants and major fuel-burning installations which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other alternate fuels where to do so furthers the conservation of natural gas and petroleum;

(8) to require that existing and new electric powerplants and major fuel-burning installations which utilize natural gas, petro-

leum, or coal or other alternate fuels pursuant to this Act comply with applicable environmental requirements;

(9) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such actions as lie within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(10) to insure that adequate supplies of natural gas are available for essential agricultural uses (including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses);

(11) to reduce the vulnerability of the United States to energy supply interruptions; and

(12) to regulate interstate commerce.

SEC. 103. DEFINITIONS.

42 USC 8302.

(a) Unless otherwise expressly provided, for the purposes of this Act—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "person" means any (A) individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, (B) any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or (C) any agency or instrumentality (including any municipality) thereof.

(3)(A) Except as provided in subparagraph (B), the term "natural gas" means any fuel consisting in whole or in part of—

(i) natural gas;

(ii) liquid petroleum gas;

(iii) synthetic gas derived from petroleum or natural gas liquids; or

(iv) any mixture of natural gas and synthetic gas.

(B) The term "natural gas" does not include—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity), as determined under rules prescribed by the Secretary;

(ii) natural gas produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(iii) natural gas to the extent the exclusion of such gas is provided for in subsection (b); or

(iv) synthetic gas, derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(4) The term "petroleum" means crude oil and products derived from crude oil, other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas;

(C) liquid, solid, or gaseous waste byproducts of refinery operations which are commercially unmarketable, either by reason of quality or quantity, as determined under rules prescribed by the Secretary; or

(D) petroleum coke or waste gases from industrial operations.

(5) The term "coal" means anthracite and bituminous coal, lignite, and any fuel derivative thereof.

(6) The term "alternate fuel" means electricity or any fuel, other than natural gas or petroleum, and includes—

(A) petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood, and renewable and geothermal energy sources;

(B) liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity, as determined under rules prescribed by the Secretary; and

(C) waste gases from industrial operations.

(7)(A) The terms "electric powerplant" and "powerplant" mean any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(i) has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) For purposes of subparagraph (A), the term "electric generating unit" does not include—

(i) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(ii) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale, as determined by the Secretary.

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule, to be appropriate.

(8) The term "new electric powerplant" means—

(A) any electric powerplant for which construction or acquisition began on a date on or after the date of enactment of this Act; and

(B) any electric powerplant for which construction or acquisition began on a date after April 20, 1977, and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such powerplant could not be canceled, rescheduled, or modified to comply with the applicable requirements of this Act without—

(i) adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority), or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(9)(A) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(B) Any powerplant treated under this Act as an existing electric powerplant shall not be treated thereafter as a new electric powerplant merely by reason of a transfer of ownership.

(10)(A) The terms "major fuel-burning installation" and "installation" means a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(i) has a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) The terms "major fuel-burning installation" and "installation" do not include—

(i) any electric powerplant; or

(ii) any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to the Secretary of such use (in accordance with rules prescribed by the Secretary).

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule to be appropriate.

(11) The term "new major fuel-burning installation" means—

(A) any major fuel-burning installation on which construction or acquisition began on a date on or after the date of the enactment of this Act; and

(B) any major fuel-burning installation on which construction or acquisition began on a date after April 20, 1977. and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such installation could not be canceled, rescheduled, or modified to comply with applicable requirements of this Act without—

(i) incurring significant operational detriment of the unit (as determined by the Secretary); or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(12)(A) The term "existing major fuel-burning installation" means any installation which is not a new major fuel-burning installation.

(B) Such term does not include a major fuel-burning installation for the extraction of mineral resources located—

(i) on or above the Continental Shelf of the United States, or

(ii) on wetlands areas adjacent to the Continental Shelf of the United States,

where coal storage is not practicable or would produce adverse effects on environmental quality.

(C) Any installation treated as an existing major fuel-burning installation shall not be treated thereafter as a new major fuel-burning installation merely by reason of a transfer of ownership.

(13) The term "construction or acquisition began" means, when used with reference to a certain date, that—

(A) construction in accordance with final drawings or equivalent design documents (as defined by the Secretary, by rule) began on or after that date; or

(B)(i) construction or acquisition had been contracted for on or after that date, or (ii) if the construction or acquisition had been contracted for before such date, such construction or acquisition could be canceled, rescheduled, or modified to comply with the applicable requirements of this Act—

(I) without imposing substantial financial penalty, as determined under rules prescribed by the Secretary;

(II) in the case of a powerplant, without adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority); or

(III) in the case of a major fuel-burning installation, without incurring significant operational detriment of the unit (as determined by the Secretary).

(14) The term "construction" means substantial onsite construction or reconstruction, as defined by rule by the Secretary.

(15) The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation, except it does not include, as determined under rules prescribed by the Secretary—

(A) the minimum amounts of fuel required for unit ignition, startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent (i) unanticipated equipment outages and (ii) emergencies directly affecting the public health, safety, or welfare which would result from electric power outages.

(16) The term "site limitation" means, when used with respect to any powerplant or installation, any specific physical limitation associated with a particular site which relates to the use of coal or other alternate fuels as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other alternate fuels;

(B) lack of transportation facilities for coal or other alternate fuels;

(C) lack of adequate land or facilities for the handling, use, and storage of coal or other alternate fuels;

(D) lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(E) lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

(17) The term "applicable environmental requirements" includes—

(A) any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels or natural gas or petroleum as a primary energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

42 USC 7401 note. 33 USC 1251 note. 42 USC 6901 note. 42 USC 4321 note.

(B) any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

(18) (A) The term "peakload powerplant" means a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1,500 hours.

(B) The term "intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

(C) The term "base load powerplant" means a powerplant the electrical generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

Rules.

(D) Not later than 90 days after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(19) the term "cogeneration facility" means an electric powerplant or a major fuel-burning installation which produces—

(A) electric power; and

(B) any other form of useful energy (such as steam, gas, or heat) which is, or will be, used for industrial, commercial, or space heating purposes.

(20) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated remaining useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Secretary (in the case of powerplants, in consultation with the State regulatory authorities). In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any State regulated electric utility.

(22) The term "air pollution control agency" has the same meaning as given such term by section 302(b) of the Clean Air Act.

42 USC 7602.

(23) The term "electric utility" means any person, including any affiliate, or Federal agency which sells electric power.

(24) The term "affiliate", when used in relation to a person, means another person which controls, is controlled by, or is under common control with, such person.

(25) The term "Federal agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States; and

(D) the government of the District of Columbia.

(26) The term "Btu" means British thermal unit.

(27) the term "Mcf" means, when used in relation to natural gas, 1,000 cubic feet of natural gas.

(28) The term "mixture", when used in relation to fuels used in a unit, means a mixture of such fuels or a combination of such fuels used simultaneously or alternately in such unit.

(29) The term "fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid-like state by the means of air or other gases being passed through such materials.

(b) Special Rules Relating to Definitions of Natural Gas and Alternate Fuel.—(1) Subject to paragraph (2), natural gas which is to be used by a powerplant or major fuel-burning installation shall, for purposes of this Act (other than this subsection), be excluded from the definition of "natural gas" under subsection (a)(3)(B)(iii) and shall be included within the definition of "alternate fuel" under subsection (a)(6) if the person proposing to use such natural gas certifies to the Secretary (together with such supporting documents as the Secretary may require) that—

(A) such person owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal or another alternate fuel;

(B) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by this subsection by reason of such certification, plus the approximate Btu content of any natural gas consumed or lost in transportation;

(C) such person delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person; and

(D) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under section 201(2) against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

Report, submittal to Secretary.

(2) The application of paragraph (1) with respect to the use of natural gas by any powerplant or major-fuel burning installation shall be conditioned on the person using such natural gas submitting to the Secretary a report not later than one year after certification is made under paragraph (1), and annually thereafter, containing the following information:

(A) the source, amount, quality, and point of delivery to the pipeline of the synthetic gas to which paragraph (1) applied during the annual period ending with the calendar month preceding the date of such report; and

(B) the amount, quality, and point of delivery by the pipeline to such person of the natural gas covered by paragraph (1) which is used by the person during such annual period.

(3) In the case of any boiler subject to a prohibition under section 401, the preceding provisions of this subsection shall apply with respect to such boiler to the same extent and in the same manner as they apply in the case of major fuel-burning installations.

Post, p. 3314.

"Pipeline".

(4) For purposes of this subsection, the term "pipeline" means any interstate or intrastate pipeline or local distribution company.

SEC. 104. TERRITORIAL APPLICATION.

42 USC 8303.

The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that—

(1) the provisions of titles II and III (other than section 301) shall only apply to powerplants and installations situated within the contiguous 48 States, Alaska, and the District of Columbia; and

(2) the provisions of section 301 shall only apply to powerplants situated within the contiguous 48 States and the District of Columbia.

TITLE II—NEW FACILITIES

Subtitle A—Prohibitions

SEC. 201. NEW ELECTRIC POWERPLANTS.

42 USC 8311.

Except to such extent as may be authorized under subtitle B—

(1) natural gas or petroleum shall not be used as a primary energy source in any new electric powerplant; and

(2) no new electric powerplant may be constructed without the capability to use coal or any other alternate fuel as a primary energy source.

SEC. 202. NEW MAJOR FUEL-BURNING INSTALLATIONS.

42 USC 8312.

(a) General Prohibition.—Except to such extent as may be authorized under subtitle B, natural gas or petroleum shall not be used as a primary energy source in a new major fuel-burning installation consisting of a boiler.

(b) Authority of Secretary to Prohibit Nonboilers From Using Natural Gas or Petroleum.—(1) The Secretary may, by rule, prescribe categories (identified in such rules) of new major fuel-burning installations, other than boilers, in which natural gas or petroleum, or both, shall be prohibited from being used as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this paragraph, the Secretary shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other alternate fuels and the size or geographic location of such installations). The application of any such final rule in the case of any new major fuel-burning installation subject to such rule shall be stayed pending a resolution (including judicial review) of any petition for an exemption for such installation which is filed with the Secretary not later than 60 days after such final rule is published under section 702(a). Any such final rule shall not apply in the case of any installation with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subtitle B).

Final rule, application.

Post, p. 3331.

(2)(A) The Secretary may, by order, prohibit the use of natural gas or petroleum, or both, as a primary energy source in any new major fuel-burning installation, other than a boiler, if such installation is not, at the time of the issuance of the proposed order, in a category identified in a final rule issued under paragraph (1).

(B) Subject to subpragraph (C), the Secretary shall not issue a final order under this paragraph with respect to any installation if it is demonstrated that there would have been granted an exemption for such installation if such prohibition had been established by rule pursuant to paragraph (1) rather than by order pursuant to this paragraph, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as such temporary exemption would have terminated.

(C) In any case in which an order is not issued by reason of subparagraph (B) or in which the effective date of such order is delayed under subparagraph (B), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 214(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

Applicability.

(3) A prohibition under this subsection shall only apply with respect to an installation for which construction or acquisition began on or after the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition. Any installation not subject to such a prohibition because of the preceding sentence shall be considered an existing major fuel-burning installation for purposes of title III.

Post, p. 3329.

Subtitle B—Exemptions

SEC. 211. TEMPORARY EXEMPTIONS.

42 USC 8321.

(a) General Exemption Due to Lack of Alternate Fuel Supply, Site Limitations, or Environmental Requirements.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

(2) one or more site limitations exist which would ot permit the location or operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 201 or 202 could not be satisfied without violating applicable environmental requirements.

(b) Temporary Exemption Based Upon Future Use of Synthetic Fuels.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

Compliance plan, filing and maintenance.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 214(b).

(c) Temporary Public Interest Exemption.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption would be in the public interest and would be consistent with the purposes of this Act.

(d) Temporary Exemption for the Use of Petroleum by Certain Installations.—After consideration of a petition (and comments thereon) for an exemption from the prohibition of the use of petroleum under section 202 for an installation with a design capacity of consuming any fuel (or any mixture thereof) at a fuel heat input rate which does not exceed 300 million Btu's per hour, the Secretary may, by order, grant an exemption under this subsection for the use of petroleum if he finds that the petitioner has demonstrated, by the existence of binding contracts or other evidence, including appropriate State construction permits, that he will use coal or another alternate fuel for at least 75 percent of the annual fuel heat input rate upon the expiration of such exemption. For provisions relating to authority to receive, consider and granting (or denying) certain petitons for an exemption under this subsection, see section 902(b).

Post, p. 3349.

(e) Duration of Temporary Exemptions.—(1) Except as provided in paragraph (2), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) An exemption under subsection (b) may be extended beyond the 5-year limit under paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) If an exemption is granted for any powerplant or installation before the powerplant or installation is placed in service, the period before it is placed in service shall not be taken into account in computing the 5-year and the 10-year limitations of paragraphs (1) and (2).

SEC. 212. PERMANENT EXEMPTIONS.

42 USC 8322.

(a) Permanent Exemption Due to Lack of Alternate Fuel Supply, Site Limitations, Environmental Requirements, or Adequate Capital.—(1) After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source (i) will not be available within the first 10 years of the useful life of the powerplant or installation, or (ii) will not be available at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the useful life of the powerplant or installation involved;

(B) one or more site limitations exist which would not permit the location or operation of such powerplant or installation using coal or any other alternate fuel as a primary energy source;

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements; or

(D) the required use of coal or any other alternate fuel would not allow the petitioner to obtain adequate capital for the financing of such powerplant or installation.

(2) The demonstration required to be made by a petitioner under paragraph (1) shall—

(A) in the case of a new major fuel-burning installation, be made with respect to the site of such installation proposed by the petitioner; and

(B) in the case of a new electric powerplant, be made with respect to the site of such powerplant and reasonable alternative sites.

(3) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (h) may not be granted an exemption under this subsection.

Limitation.

(b) Permanent Exemption Due to Certain State or Local Requirements.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) with respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

(2) in the case of a powerplant, there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1) (A) through (D); and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) Permanent Exemption for Cogeneration.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) Permanent Exemption for Certain Mixtures Containing Natural Gas or Petroleum.—(1) After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation needed to maintain reliability of operation of such powerplant or installation consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

Percentage determination.

(2) In the case of a new major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent.

(e) Permanent Exemption for Emergency Purposes.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) Permanent Exemption for Powerplants Necessary To Maintain Reliability of Service.—After consideration of a petition (and comments thereon) for an exemption for a powerplant from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum if he finds that the petitioner has demonstrated that—

(1) such exemption is necessary to prevent impairment of reliability of service, and

(2) the petitioner, despite diligent good faith efforts, is not able to make the demonstration necessary to obtain an exemption under subsection (a) or (b) in the time required to prevent such impairment of service.

(g) Permanent Exemption for Peakload Powerplants.—After consideration of a petition (and comments thereon) for an exemption for a powerplant—

(1) in the case of a proposed use of petroleum, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to petroleum if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant; and

(2) in the case of a proposed use of natural gas, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas if—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded; and

(B) the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(h) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may grant a permanent exemption under this subsection for such use, by order, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded;

(B) such powerplant is to be constructed and operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary source,

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such area;

(C) such powerplant is to be operated solely as an intermediate load powerplant;

(D) the net heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant;

(E) there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1) (A) through (D); and

(F) the powerplant is to be constructed with the capability to use a synthetic fuel derived from coal or other alternate fuel.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption when he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant. Review.

(i) PERMANENT EXEMPTIONS FOR INSTALLATIONS BASED UPON PRODUCT OR PROCESS REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the use of coal or another alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(j) PERMANENT EXEMPTION FOR INTALLATIONS NECESSARY TO MEET SCHEDULED EQUIPMENT OUTAGES.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 213. GENERAL REQUIREMENTS FOR EXEMPTIONS.

42 USC 8323.

(a) USE OF MIXTURES OR FLUIDIZED BED COMBUSTION NOT FEASIBLE.—Except in the case of an exemption under section 212 (d) or (g), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal or another alternate fuel, for which an exemption under section 212(d) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or another alternate fuel is economically and technically feasible.

(b) STATE APPROVAL REQUIRED FOR POWERPLANT.—If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption—

(1) to the extent it applies to the prohibition under section 201 (2) against construction without the capability of using coal or another alternate fuel, shall not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained; and

(2) to the extent it applies to the prohibition under section 201 (1) against the use of natural gas or petroleum as a primary energy source, shall not take effect until all approvals required by such State regulatory authority which relate to construction or operation have been obtained.

(c) NO ALTERNATIVE POWER SUPPLY IN THE CASE OF A POWERPLANT.—(1) Except in the case of an exemption under section 212 (c) or (g), the Secretary may not grant an exemption for a new powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

Petition and consultation.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed with the Secretary and shall consult with such Commission before making any finding on such petition under paragraph (1).

SEC. 214. TERMS AND CONDITIONS; COMPLIANCE PLANS.

42 USC 8324.

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibitions of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow or such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE III—EXISTING FACILITIES

Subtitle A—Prohibitions

SEC. 301. EXISTING ELECTRIC POWERPLANTS.

42 USC 8341.

(a) GENERAL PROHIBITIONS.—Except to such extent as may be authorized under subtitle B—

(1) natural gas shall not be used as a primary energy source in an existing electric powerplant on or after January 1, 1990;

(2) natural gas shall not be used as a primary energy source in an existing electric powerplant before January 1, 1990, unless such powerplant used natural gas as a primary energy source at any time during calendar year 1977; and

(3) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year before 1990 in greater proportions than the average yearly proportion of natural gas which—

(A) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(B) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

Stay of prohibition.

The prohibition of paragraph (1) shall be stayed with respect to any existing powerplant pending a resolution (including judicial review) of any petition for any exemption from such prohibition which is filed for such powerplant at any time after the effective date of this Act, but at least one year before the date such prohibition first takes effect.

(b) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if the Secretary finds that—

(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the powerplant, or

(B) substantial reduction in the rated capacity of the powerplant; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

Finding, publication.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

Post, p. 3329.

(c) Authority of Secretary To Prohibit Excessive Use in Mixtures.—In the case of any existing electric powerplant in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

SEC. 302. EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

42 USC 8342.

(a) Authority of Secretary To Prohibit Where Coal or Alternate Fuel Capability Exists.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing major fuel-burning installation, if the Secretary finds that—

(1) such installation has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) such installation has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the unit, or

(B) substantial reduction in the rated capacity of the unit; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such installation.

Finding, publication.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

Post, p. 3329.

(b) Authority of Secretary To Prohibit Excessive Use in Mixtures.—

(1) In the case of any existing major fuel-burning installation in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such installation in amounts in excess of the minimum percentage of the total Btu heat input of the primary energy sources needed to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

Percentage determination.

(2) The percentage determined by the Secretary under paragraph (1) shall not be less than 25 percent.

SEC. 303. RULES RELATING TO CASE-BY-CASE AND CATEGORY PROHIBITIONS.

42 USC 8343.

(a) Case-by-Case Prohibitions.—(1) Except to the extent authorized by subsection (b), the Secretary shall prohibit any powerplant or installation from using natural gas or petroleum under the authority granted him under section 301 (b) or (c) or 302 only by means of a final order issued by him which shall be limited to the particular powerplant or installation involved.

(2) The Secretary may issue such a final order only with respect to a powerplant or installation which is not, at the time the proposed order is issued, covered by a final rule issued under section (b).

(3)(A) Subject to subparagraph (B), the Secretary shall not issue a final order under this subsection to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by a final rule pursuant to subsection (b) rather than by order pursuant to this subsection, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as the temporary exemption would have terminated.

(B) In any case in which an order is not issued by reason of subparagraph (A) or in which the effective date of such order is delayed under subparagraph (A), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 314(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

(b) Prohibitions Applicable to Categories of Facilities.—(1) The Secretary may, by rule, prohibit the use of natural gas or petroleum pursuant to section 301(b) or 302(a)—

(A) in the case of any category of existing electric powerplants identified in such rule; and

(B) in the case of any category of existing major fuel-burning installations which have design capabilities of consuming fuel (or any mixture thereof) at a fuel heat input rate of 300 million Btu's per hour or greater which are identified in such rule.

(2) Each powerplant or installation to be covered by any final rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b).

Post, p. 3329.

Final rule, application.

(3) In prescribing any final rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the intermittent use, size, age, or geographic location of such powerplants or installations). Any such rules shall not apply in the case of any existing electric powerplant or major fuel-burning installation—

(A) pending a resolution (including judicial review) of any petition for any exemption for such powerplant or installation which may be filed with the Secretary not later than 60 days after such final rule is published under section 702(a); or

Post, p. 3331.

(B) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued by reason of subsection (a)(3)).

Subtitle B—Exemptions

SEC. 311. TEMPORARY EXEMPTIONS.

42 USC 8351.

(a) Temporary Exemption Due to Lack of Alternate Fuel Supply, Site Limitations, or Environmental Requirements.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant such an exemption for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source, will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

(2) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 301 or 302 could not be satified without violating applicable environmental requirements.

(b) Temporary Exemption Based Upon Future Use of Synthetic Fuels.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

Compliance plan, filing and maintenance.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

(c) Temporary Exemption Based Upon Use of Innovative Technologies.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will comply with such prohibitions at the expiration of such exemption by the adoption of a technology for the use of coal or another alternate fuel which at the time of the granting of the exemption is determined by the Secretary to be an innovative technology. The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

Compliance plan, filing and maintenance.

(d) Temporary Exemption for Units To Be Retired.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation is to permanently cease operation at or before the expiration of the exemption period. An exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b) (other than paragraph (1)(B)).

Compliance plan, filing and maintenance.

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle may not be granted for any powerplant or installation once an exemption under this subsection has been granted for such powerplant or installation.

(e) Temporary Public Interest Exemption.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption is in the public interest and is consistent with the purposes of this Act.

(f) Temporary Exemption for Peakload Powerplants.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(g) Temporary Exemption for Powerplants Where Necessary to Maintain Reliability of Service.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such exemption is necessary to prevent impairment of reliability of service.

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle (other than a permanent exemption under section 312(f) for the use of petroleum) may not be granted for any powerplant for which an exemption under this subsection has been granted.

(h) Duration of Temporary Exemptions.—(1) Except as provided in paragraphs (2) and (3), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) Subject to paragraph (3), an exemption under subsections (b), (c), and (g) may be extended beyond the 5-year limit under paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) An exemption under subsections (d), (f), and (g) for the use of natural gas by a powerplant may not extend beyond December 31, 1994.

(4) In computing the 5-year and 10-year limitations of paragraphs (1) and (2) in the case of any exemption under this section, the period before the prohibition on the use of natural gas and petroleum would first apply (if the exemption had not been granted) shall be disregarded.

SEC. 312. PERMANENT EXEMPTIONS.

(a) Permanent Exemption Due to Lack of Alternate Fuel Supply, Site Limitations, or Environmental Requirements.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a 42 USC 8352.

permanent exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuels of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the remaining useful life of the powerplant or installation;

(B) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements.

(2) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (g) may not be granted an exemption under this subsection.

(b) PERMANENT EXEMPTION DUE TO CERTAIN STATE OR LOCAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) with respect to the site of the powerplant or installation, the operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement;

(2) if such State or local requirement is under a building code or nuisance or zoning law, no other exemption under this subtitle could be granted for such facility; and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) PERMANENT EXEMPTION FOR COGENERATION.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility, the Secretary may, by order, grant a permanent exemption under this subsection, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) PERMANENT EXEMPTION FOR CERTAIN FUEL MIXTURES CONTAINING NATURAL GAS OR PETROLEUM.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation needed to maintain reliability of operation of the unit consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

(2) In the case of an existing major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent.

Percentage determination.

(3) In the case of an existing electric powerplant, the Secretary may authorize a higher percentage than that referred to in paragraph (1)(B) if he finds that the higher percentage of natural gas allowed would be mixed with synthetic fuels derived from municipal wastes or agricultural wastes and would encourage the use of alternate or new technologies which use renewable sources of energy.

(e) PERMANENT EXEMPTION FOR EMERGENCY PURPOSES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) PERMANENT EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that—

(1) the powerplant is operated solely as a peakload powerplant;

(2) a denial of such petition is likely to result in an impairment of reliability of service; and

(3)(A) modification of the powerplant to permit compliance with such prohibitions is technically infeasible; or

(B) such modification would result in an unreasonable expense.

(g) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such area;

(B) such powerplant is to be operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary energy source,

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such region;

(C) such powerplant is and shall continue to be operated solely as an intermediate load powerplant;

(D) the net fuel heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the remaining useful life of the powerplant; and

(E) the powerplant has the capability to use synthetic fuels derived from coal or other alternate fuel.

Review.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption if he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant.

(h) Permanent Exemption for Use of Natural Gas by Certain Powerplants With Capacities of Less Than 250 Million Btu's Per Hour.—(1) Subject to paragraph (2), after consideration of a petition (and comments thereon) for an exemption from any prohibition of subtitle A for the use of natural gas by a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for such use, if he finds that the petitioner has demonstrated that—

(A) such powerplant has a design capability of consuming fuel (or any mixture thereof) at a fuel heat input rate of less than 250 million Btu's per hour;

(B) such powerplant was a baseload powerplant on April 20, 1977; and

(C) such powerplant is not capable of consuming coal without—

(i) substantial physical modification of the unit; or

(ii) substantial reduction in the rated capacity of the unit (as determined by the Secretary).

Exemption applicability.

(2) An exemption under this subsection may only apply to the prohibitions under section 301 and prohibitions established by final rules or orders issued before January 1, 1990.

(i) Permanent Exemption for the Use of LNG by Certain Powerplants.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of liquefied natural gas if the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) has certified to the Secretary that the use of coal by such powerplant as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such region or area and the use of coal would not comply with applicable environmental requirements.

(j) Permanent Exemption for Installations Served by Certain International Pipelines.—(1) After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of natural gas, if he finds that the petitioner has demonstrated that—

(A) such installation's primary source of natural gas is under a contract with a pipeline between Canada and the United States which cannot be cancelled by the petitioner without his suffering substantial financial penalty;

(B) such pipeline was supplying to such installation before April 21, 1977, natural gas from Canada under such contract;

(C) such pipeline serves high-priority users within the United States service to whom would be jeopardized if service to such installation is terminated;

(D) the revenues from the transportation and sale of natural gas transported by such pipeline are essential to the economic vitality of the pipeline; and

(E) the exemption is consistent with the purposes of this Act, and the denial of such exemption would not result in natural gas being made available for any other use within the United States.

(2) For purposes of this subsection, the term "high-priority user" means any residential user of natural gas, or any commercial user whose consumption of natural gas on a peak day is less than 50 Mcf, as determined by the Secretary.

"High-priority user".

(k) Permanent Exemption for Installation Based Upon Product or Process Requirements.—After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) the use of coal or other alternate fuels is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(l) Permanent Exemption for Installations Necessary To Meet Scheduled Equipment Outages.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 313. GENERAL REQUIREMENTS FOR EXEMPTIONS.

42 USC 8353.

(a) Use of Mixtures or Fluidized Bed Combustion Not Feasible.—Except in the case of an exemption under section 312 (b), (f), (i) or (j), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal (or other alternate fuels), for which an exemption under section 312(b) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or an alternate fuel is economically and technically feasible.

(b) No Alternative Power Supply in the Case of a Powerplant.—(1) In the case of an exemption under section 312 (b) or (g), the Secretary may not grant an exemption for an existing powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed

Petition and consultation.

with the Secretary and shall consult with the Commission before making any finding on such petition under paragraph (1).

SEC. 314. TERMS AND CONDITIONS; COMPLIANCE PLANS.

42 USC 8354.

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibition of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

SEC. 401. AUTHORITY TO PROHIBIT USE OF NATURAL GAS IN CERTAIN BOILERS USED FOR SPACE HEATING.

42 USC 8371.

(a) EXISTING BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if he finds that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler consumes 300 Mcf or more of natural gas per day on a peak day;

(3) such boiler has, or previously had, the technical capability to use petroleum as a primary energy source;

(4) such boiler has the technical capability to use petroleum as a primary energy source or it could have such capability without—

(A) substantial physical modification of the boiler, or

(B) substantial reduction in the rated capacity of the unit;

(5) it is financially feasible for such boiler to use petroleum as a primary energy source; and

(6) such prohibition is consistent with the purposes of this Act.

The requirement of paragraph (3) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b).

(b) NEW BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if he determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will, by design, be capable of consuming 300 Mcf or more of natural gas per day; and

(3) such prohibition is consistent with the purposes of this Act.

(c) Exemption.—The Secretary shall exempt any person from any prohibition prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Secretary that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

(d) Definitions.—

(1) The term "new boiler" means any boiler for which there was not a commitment for construction or acquisition as of the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition.

(2) The term "existing boiler" means any boiler other than a new boiler.

(e) Method of Prohibition.—(1)(A) Except to the extent authorized by paragraph (2), the Secretary shall prohibit boiler fuel use of natural gas under the authority granted him in subsection (a) or (b) only by means of a final order issued by him which shall be limited to the particular boiler involved.

(B) The Secretary may issue such an order only with respect to a boiler which is not, at the time the proposed order is issued, covered by a final rule issued under paragraph (2).

(C) The Secretary shall not issue a final order under this subsection with respect to any boiler if it is demonstrated that an exemption under subsection (c) would have been granted with respect to such boiler if such prohibition had been established by rule pursuant to paragraph (2) rather than by order.

(2)(A) The Secretary may, by rule, prohibit the use of natural gas under the authority of subsection (a) or (b) in the case of any category of boilers identified in such rule.

(B) Any existing boiler to be covered by any rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b).

(C) In prescribing any rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of boilers (such as the technical feasibility of burning petroleum and the size, age, or geographic location of such boilers). Any such final rule shall not apply in the case of any boiler—

Final rule, application.

(i) subject to such rule pending a resolution of any petition (including judicial review) for any exemption for such boiler which may be filed with the Secretary not later than 60 days after such rule is published under section 701(b); or

(ii) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subsection (c)).

SEC. 402. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING.

42 USC 8372.

(a) Prohibition on Installation of New Outdoor Lighting.—Effective beginning on the date of the enactment of this Act, no local distribution company, or any industrial user of natural gas who obtains such gas under a contract between such user and a natural gas pipeline, or any agent thereof, shall install any outdoor lighting fixture using natural gas.

(b) Prohibition on Selling Natural Gas To Be Used in Outdoor Lighting.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, by rule, prohibit any local distribution company (unless an exemption has been obtained under subsection (c)) from providing natural gas service for use in outdoor lighting—

(A) effective on the date such final rule is issued, in the case of any residential, commercial, or industrial customer unless a later effective date is applicable under subparagraph (B) or (C) of this paragraph;

(B) effective beginning 180 days after the date such final rule is issued, in the case of any industrial or commercial structure for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act; and

(C) effective beginning January 1, 1982, in the case of—

(i) any municipal outdoor lighting fixture, and

(ii) any outdoor lighting fixture used in connection with a residence,

for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act.

(2) The rule prescribed under paragraph (1) shall provide that any industrial user of natural gas who obtains such natural gas under a contract between such user and a natural gas pipeline shall be prohibited from using such natural gas for outdoor lighting (unless an exemption has been obtained under subsection (c))—

(A) effective 180 days after the date such final rule takes effect, if the industrial user was using natural gas for outdoor lighting on the date of the enactment of this Act; or

(B) beginning on the date such final rule takes effect, if such industrial user was not so using natural gas on such date.

(c) Exemptions.—(1) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a) the installation of a replacement lighting fixture for any memorial light or light of historical signficance, and

(B) permanently exempt from a prohibition under subsection (b) the use natural gas in any memorial light or light of historial significance.

if a petition for such exemption is made by a Federal, State, or local government agency or by any appropriate historical association.

(2) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a), upon a petition therefor, the installation of a replacement lighting fixture for any natural gas outdoor lighting, and

(B) permanently exempt from a prohibition under subsection (b), upon a petition therefor, use of natural gas for outdoor lighting,

which is used for commercial purposes, which is of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located.

Petition, filing.

(3) The Secretary shall, by order, exempt any local distribution company or industrial user described in subsection (b)(2), from the rule required to be prescribed under subsection (b) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any other interested person. Such exemption shall be for such period as, and to the extent that, the Secretary finds—

(A) such exemption is necessary to protect the safety of persons or property;

(B) such exemption is necessary to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(C) compliance with such rule would entail substantial expense and would not be cost justified; or

(D) the issuance of the exemption is in the public interest and is consistent with the purposes of this Act.

Determinations.

(4) Determinations on any petition for an exemption under this section shall be made under criteria which the Secretary shall establish by rule, which rule shall be prescribed not later than 180 days after the effective date of this Act.

Hearing.

(d) PROCEDURES.—Rules and orders under this section shall be made in accordance with the provisions of section 553 of title 5, United States Code, except that determinations on any petition for exemption under this section shall be made only after interested persons have been afforded an opportunity for a public hearing. Under rules prescribed by the Secretary, the Secretary may stay the application of any prohibition under subsection (b) applicable to any person pending the resolution of any petition for an exemption for such person.

(e) AUTHORITY MAY BE DELEGATED TO STATES.—(1) Under regulations prescribed by the Secretary, the responsibility and authority of the Secretary with regard to outdoor lighting under this section may be delegated to the appropriate regulatory authority of a State if he determines that such delegation would be consistent with the purposes of this section.

(2) Any delegation under paragraph (1) shall be on terms and conditions prescribed by the Secretary and may be rescinded by the Secretary at any time by notifying the State authority of such rescission.

Reports, transmittal to Secretary.

(3) Any State authority to which the Secretary has delegated authority under this subsection shall prepare and transmit reports to the Secretary on a periodic basis (as determined by the Secretary) on actions taken to carry out the purposes of this section.

(f) DEFINITIONS.— As used in this section—

(1) The term "outdoor lighting" means lighting by any stationary source which is not located inside any building.

(2) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(3) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(4) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with any such unit.

SEC. 403. CONSERVATION IN FEDERAL FACILITIES, CONTRACTS, AND FINANCIAL ASSISTANCE PROGRAMS.

42 USC 8373.

(a) FEDERAL FACILITIES.—(1) Each Federal agency owning or operating any electric powerplant, major fuel-burning installation, or other unit shall comply with any prohibition, term, condition, or other substantial or procedural requirement under this Act, to the same extent as would be the case if such powerplant, installation, or unit were owned or operated by a nongovernmental person.

Exemption order by President.

(2) The President may, by order, exempt from the application of paragraph (1) any powerplant, installation, or other unit owned or operated by any Federal agency, if the President determines that—

(A) such use is in the paramount interest of the United States and that the powerplant, installation, or unit involved is a component of or is used solely in connection with any weaponry, equipment, aircraft, vessels, vehicles or other classes or categories of property which—

(i) are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State; and

(ii) are uniquely military in nature; or

(B) there is a lack of appropriation for such use but only if the President specifically requested such appropriations as a part of the budgetary process and the Congress failed to make available such requested appropriation.

Transmittal to Congress.
Review, submittal to Congress.

Such order shall not take effect until 60 days after a copy of such order has been transmitted to each House of the Congress. The President shall review each such determination every 2 years and submit a report to the Congress on the results of such review. Any powerplant, installation, or other unit permitted to use natural gas or petroleum under an exemption under this paragraph shall establish and carry out effective fuel conservation measures, as determined by the Secretary.

(3) Any powerplant, installation, or unit owned or operated by any such Federal agency shall be entitled to any exemption by the Secretary to the same extent, in the same manner, and under the same terms and conditions as would apply if it were owned or operated by a nongovernmental person.

(b) Federal Contracts and Financial Assistance.—(1) In order to implement the purposes of this Act, the President shall, not later than 30 days after the effective date of this Act, issue an order—

Requirements.

(A) requiring each Federal agency which is authorized to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purposes of this Act relating to the conservation of petroleum and natural gas, by rule, in such contracting or assistance activities within 180 days after issuance of such order, and

Annual reports, transmittal to President and public availability.

(B) setting forth procedures, sanctions, penalties, and such other provisions as the President determines necessary to carry out such requirement effectively, including a requirement that each agency annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(2) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this subsection if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

Written notification to Congress.

(3) The President or any Federal agency may not use the authority granted under paragraph (1) to require compliance, including the use of coal, by any person or facility with any prohibition under other sections of this Act if such person or facility has been specifically determined by the Secretary as subject to such prohibition or has been exempted from the application of such prohibition.

Submittal to Congress.

(c) Annual Report.—The President shall annually submit a detailed report to each House of the Congress on the actions taken by

best copy available

the President and each Federal agency to implement this section, including the progress and problems associated with implementation of this section.

SEC. 404. EMERGENCY AUTHORITIES.

42 USC 8374.

(a) COAL ALLOCATION AUTHORITY.—(1) If the President—

(A) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

42 USC 6202.

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the President may, by order, allocate coal (and require the transportation thereof) for the use of any electric powerplant or major fuel-burning installation, in accordance with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

"Coal."

(2) For purposes of this subsection, the term "coal" mans anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof).

(b) EMERGENCY PROHIBITION ON USE OF NATURAL GAS OR PETROLEUM.—If the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Notwithstanding any other provision of this section, any suspension of emission limitations or other requirements of applicable implementation plans, as defined in section 110(d) of the Clean Air Act, required by such prohibition shall be issued only in accordance with section 110(f) of the Clean Air Act.

42 USC 6202.

42 USC 7410.

(c) EMERGENCY STAYS.—The President may, by order, stay the application of any provision of this Act, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) DURATION OF EMERGENCY ORDERS.—(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

Transmittal to Congress.

42 USC 6421.

Congressional review.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

42 USC 6421.

(4) For purposes of this subsection, the provisions of this subsection supersede the provisions of title II of the Act of September 14, 1976 (Public Law 94-412; 50 U.S.C. 1621 and following).

(e) Delegation of Authority Prohibited.—The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations or take such other action, consistent with this section, in the implementation of such order.

Publication in Federal Register.

(f) Publication and Reports to Congress of Orders.—Any order issued under this section shall be published in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to the Congress of his intention to issue such order and state his reasons therefor.

Ante, p. 3292.

(g) Emergency Uses of Natural Gas or Petroleum.—(1) During a temporary emergency condition (other than emergency conditions provided for under section 103(a)(15)), any person operating a peakload powerplant or a major fuel-burning installation may, under rules prescribed by the Secretary, use natural gas or petroleum as a primary energy source in such powerplant or installation, notwithstanding any prohibition otherwise imposed by or pursuant to this Act, if—

(A) such person notifies the Secretary within 24 hours after commencing such use; and

(B) the Secretary has not notified such person that in his judgment the emergency condition does not exist or does not warrant the use of natural gas or petroleum involved.

(2) Within 90 days after the effective date of this Act, the Secretary shall, by rule, prescribe the form and content of such notices and the conditions which may constitute a temporary emergency.

(3) Hours of operation allowed under paragraph (1) shall not be included in the peakload powerplant's operating hours for the purposes of the penalties in section 723(b).

SEC. 405. AUTHORITY TO RESTRICT INCREASED USES OF PETROLEUM BY EXISTING POWERPLANTS.

42 USC 8375.

The Secretary shall, by rule, require that, in the case of any existing electric powerplant which during calendar year 1977 uses coal or another alternate fuel as a primary energy source, petroleum may not be used in such powerplant as a primary energy source in excess of the quantities of petroleum used in such powerplant as a primary energy source during such year unless a permit is issued by the Secretary authorizing such increased use of petroleum. Such permit shall be issued if—

Permit, issuance.

(1) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary (A) that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of such permit and (B) the petitioner has established the duration of the need for increased petroleum to comply with such plan; and

42 USC 7401 note.
42 USC 7410.

(2) the appropriate State regulatory authority has certified to the Secretary that the increased use of petroleum by such powerplant is necessary to prevent impairment of reliability of service.

Such permit shall be issued only for such period as the Secretary determines necessary under paragraph (1) or (2) for such increased use of petroleum.

TITLE V—SYSTEM COMPLIANCE OPTION

SEC. 501. ELECTRIC UTILITY SYSTEM COMPLIANCE OPTION.

(a) General Rule.—Existing electric powerplants owned or operated by an electric utility shall be considered in compliance with any prohibition under title III relating to the use of natural gas if there is in effect a plan of system compliance for such utility approved by the Secretary under subsection (b). No exemption under title III relating to the use of natural gas shall be available for any powerplant which is, or has ever been, covered by such an approved plan (other than an exemption under section 312(e)). 42 USC 8391.

(b) Requirements for Plan Approval.—The Secretary shall, by order, approve any plan of system compliance submitted by an electric utility to the Secretary before January 1, 1980, if the Secretary finds that such plan—

(1) identifies all powerplants owned or operated by such electric utility and indicates which of the powerplants—

(A) would be subject to, or could be subject to, prohibitions under title III relating to the use of natural gas if such plan were not approved; and

(B) of those so indicated in subparagraph (A), would be, or in the opinion of such electric utility would be likely to be, entitled to an exemption under title III relating to the use of natural gas if such plan were not approved;

(2) contains a commitment that, if such plan is approved, no new electric powerplant which is or is to be a base load powerplant owned or operated by such utility shall use natural gas or petroleum as its primary energy source (whether or not such powerplant could qualify for an exemption under title II for such use); *Ante*, p. 3298.

(3) contains a commitment (including a schedule for an orderly progression in satisfying such commitment) that, if such plan is approved, all existing electric powerplants owned or operated by such utility—

(A) subject to subparagraph (B), on and after January 1, 1995, would not use natural gas as a primary energy source, except in the case of an intermediate load powerplant or a peakload powerplant, and then only in accordance with rules prescribed by the Secretary; and

(B) on and after January 1, 2000, would not use natural gas as a primary energy source except in the case of a temporary extension obtained under subsection (d);

(4) contains a commitment that, if such plan is approved, natural gas will not, on and after January 1, 1990, be used by powerplants owned or operated by such utility in excess of—

(A) 20 percent (or such higher percentage as may be allowed under subsection (d)(2)) of the electric utility's base period usage of natural gas, or, if lower,

(B) the electric utility's minimum peakload requirement for the calendar year;

(5) contains a commitment that, if such plan is approved, the natural gas used by such utility will be obtained only under—

(A) a contract entered into before the date of the enactment of this Act (other than under an extension or renewal of such contract occurring on or after such date); or

(B) a contract entered into on or after such date, or an extension or renewal occurring on or after such date of a contract entered into before such date, but only if such contract, extension, or renewal has been approved by the Secretary under subsection (g); and

(6) contains a 10-year forecast of such utility's demand for electricity, a 10-year construction forecast, and a 10-year financial plan, which provide a reasonable basis for concluding that the commitments in such plan will be carried out.

Approval of the Secretary under this subsection shall be conditioned on the utility involved updating on an annual basis the information contained in such plan to the extent provided under rules prescribed by the Secretary.

(c) PLAN REVISION.—A plan under subsection (b) may be revised but only if the Secretary, by order, approves such revision.

(d) EXTENSION FOR EMERGENCY OR PEAKLOAD PURPOSES.—(1) For purposes of subsection (b)(3)(B), the Secretary may extend the date specified therein for not more than 5 years with respect to the use of natural gas by any powerplant if it is demonstrated that such use of natural gas is to be—

(A) for emergency purposes consistent with section 312(e), or

(B) for peakload purposes, consistent with section 312(f).

(2) The Secretary may exempt from the requirements of subsection (b)(4) such quantities of natural gas as would otherwise exceed such requirement if it is demonstrated that such natural gas is used solely for emergency or peakload purposes described in paragraph (1)(A) or (B).

(e) DETERMINATION OF BASE PERIOD USAGE.—(1) For purposes of subsection (b)(4)(A), an electric utility's base period usage of natural gas shall be the sum of—

(A) the quantities of natural gas used in calendar year 1976 by powerplants which are owned or operated by such utility and which were placed in service on or before January 1, 1976; plus

(B) one-half of the quantities used during the first 24 calendar-months after being placed in service by powerplants which are owned or operated by such utility and which were placed in service after January 1, 1976, and before the effective date of this Act.

Higher percentage allowance.

(2) The Secretary may allow for the substitution of a higher percentage for the 20 percent specified in subparagraph (A) of subsection (b)(4) if he determines that the utility has demonstrated that such higher percentage is necessary—

(A) because of delays which occurred, despite diligent good faith efforts, in the construction of powerplants which will use a primary energy source other than natural gas, or

(B) because it would not be feasible for such utility to comply with the requirements of such subsection (b)(4) in the absence of such higher percentage without impairing reliability of service.

(f) DETERMINATION OF MINIMUM PEAKLOAD REQUIREMENT.—For purposes of subsection (b)(4)(B), an electric utility's minimum peakload requirement for any calendar year shall be defined as the total kilowatt hours generated during the calendar year by natural gas on the system of the applicant electric utility company system divided by the aggregate capacity of all the electric powerplants in such system, but not to exceed 1,500 full-load hours per year.

(g) APPROVAL OF NATURAL GAS CONTRACTS.—The Secretary shall approve any contract, or contract extension or renewal, for purposes of applying subsection (b)(5)(B) with respect to any plan, if he determines that the electric utility which submitted such plan has demonstrated that the quantities available under such contract, or extension or renewal, do not exceed those which are necessary to meet the requirements of the powerplants under such plan. The Secretary may not approve any contract, or extension or renewal, which provides for the delivery of such natural gas after December 31, 1999.

(h) Terms and Conditions.—Any approval by the Secretary under subsection (b) shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act.

TITLE VI—FINANCIAL ASSISTANCE

SEC. 601. ASSISTANCE TO AREAS IMPACTED BY INCREASED COAL OR URANIUM PRODUCTION.

(a) Designation of Impacted Areas.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State may designate any area within such State for the purposes of this section, if he finds that— 42 USC 8401.

(A) either (i) employment in coal or uranium production development activities in such area has increased for the most recent calendar year by 8 percent or more from the immediately preceding year or (ii) employment in such activities will increase 8 percent or more per year during each of the 3 calendar years beginning after the date of such finding;

(B) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and

(C) the State and the local government or governments serving such area lack the financial and other resources to meet any such increases in public facilities and services within a reasonable time.

The Secretary of Agriculture shall prescribe a rule containing criteria and guidelines for making a designation under this subsection, after consultation with the Secretary of Labor and the Secretary of Energy, not later than 180 days after the effective date of this Act. Rule. Consultation.

(2) For purposes of paragraph (1)(C), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments which are associated with the increase in coal or uranium development activities and which are not prohibited from being used under provisions of law in effect on the date of the enactment of this Act shall be taken into account in determining if a State or local government lacks financial resources.

(3) The Secretary shall, after consultation with the Secretary of Agriculture, approve any designation of an area under paragraph (1) only if— Consultation.

(A) the Governor of the State making the designation provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and Written data and information.

(B) the Secretary determines that the requirements of subparagraphs (A), (B), and (C) of paragraph (1) have been met.

(b) Planning Grants.—(1) The Secretary of Agriculture may make a grant to any State in which there is an area designated and approved under subsection (a) for the purposes of developing a plan for such area which shall include determinations of—

(A) the anticipated level of coal or uranium production activities in such area;

(B) the socio-economic impacts which have occurred or which are reasonably projected to occur as a result of the increase in coal or uranium production activities;

(C) the availability and location of resources within such area to meet the increased needs resulting from socio-economic impacts determined under subparagraph (B) (such as any increased need for housing, or public facilities and services); and

(D) the nature and expense of measures necessary to meet within a reasonable time the increased needs resulting from such impact for which there are no resources reasonably available other than under this section.

(2)(A) Any grant for developing a plan under this subsection shall be for an amount equal to 100 percent of the costs of such plan, as determined by the Secretary of Agriculture.

(B) The aggregate amount granted under this subsection in any fiscal year may not exceed 10 percent of the total amount appropriated for purposes of this section for such year.

Plan copy, submittal to Secretary of Agriculture.

(3) The Governor of a State receiving a grant under this subsection for developing a plan shall submit a copy of such plan to the Secretary of Agriculture as soon as practicable after it has been prepared.

(c) LAND ACQUISITION AND DEVELOPMENT GRANTS.—(1) In the case of any real property—

(A) within an area for which a plan meeting the requirements of subsection (b)(1) has been approved;

(B) which is for housing or public facilities determined in such plan as necessary due to an increase in employment due to coal or uranium development activities;

(C) with respect to which the Secretary of Agriculture has determined that the State and the local governments serving such area do not have the financial resources to acquire or the legal authority to acquire by condemnation; and

(D) with respect to which there has been an approval in writing by the Governor of such State that the Secretary of Agriculture exercise his authority under this paragraph;

the Secretary of Agriculture may acquire such real property or interest therein, by purchase, donation, lease, or exchange. Property so acquired shall be transferred to the State under such terms and conditions as the Secretary of Agriculture deems appropriate. Such terms and conditions shall provide for the reimbursement to the Secretary of Agriculture for the fair market value of the property, as determined by the Secretary of Agriculture. The value of any improvement of such property made after such acquisition shall not be taken into account in determining the fair market value of such property under this subsection. Amounts so received by the Secretary of Agriculture shall be deposited in the Treasury of the United States as miscellaneous receipts.

Treasury deposits.

State commitment.

(2) Any approval by a Governor of a State under paragraph (1)(D) shall constitute a binding commitment of such State to accept the property to be acquired and to provide reimbursement for the amount of the fair market value of such property, as determined under paragraph (1).

(3) The Secretary of Agriculture may acquire property under paragraph (1) by condemnation only if he finds that—

(A) such property is not available by means other than condemnation at a price which does not substantially exceed the fair market value of such property;

(B) other real property is not similarly available which is within the same designated area and which is suitable for the purposes to which the property involved is to be applied; and

(C) the State and the local governments serving such area lack the legal authority to acquire such property by condemnation.

(4)(A) In the case of any real property which meets the requirements of subparagraphs (A), (B), and (C) of paragraph (1), the Secretary of Agriculture may make a grant to the State in which such property is located for the purposes of acquiring such property, and for any site development which is consistent with the plan developed under subsection (b).

(B) In the case of property acquired by the Secretary of Agriculture under paragraph (1) and transferred to the State, the Secretary of Agriculture may make a grant to such unit of government for the purposes of site development which is consistent with such plan.

(C) Grants for real property acquisition or site development or both under this paragraph may not exceed 75 percent of the costs thereof, as determined by the Secretary of Agriculture.

(5) In the selection of real property for acquisition and in such acquisition under this subsection, preference shall be given to real property which the Secretary of Agriculture determines at such time to be unoccupied or previously mined and abandoned.

(6)(A) Property held by the United States in trust for Indians or any Indian tribe may not be acquired by condemnation under this section.

Indian property.

(B) No property within the National Forest System (as defined in section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974) may be exchanged by the Secretary in any acquisition under paragraph (1).

National Forest property.
16 USC 1608.

(d) General Requirements Regarding Assistance.—(1) Assistance under this section shall be provided only upon application, which application shall contain such information as the Secretary of Agriculture shall prescribe.

(2) The Secretary of Agriculture may make any grant under this section in whole or in part to the local government or governments serving an area designated and approved under subsection (a), or to a council of local governments which includes one or more local governments serving such area (in lieu of making such grant solely to the State), if he has determined, after consultation with the Governor of the State, that to do so would be appropriate.

(3) The Secretary of Agriculture shall prescribe, by rule, criteria for the allocation of assistance under this section. Such criteria shall give due weight to the magnitude of the employment increase involved, the financial resources of the designated area, and the ratio of the financial burden on the area to the resources available to such area.

Allocation criteria.

(4) Assistance under this section shall be provided only if the Secretary of Agriculture is satisfied that—

(A) the amounts expended by the State and the local governments involved for the same purposes for which such assistance is provided will not be reduced; and

(B) the amount of such assistance does not reflect any amount for which other Federal financial assistance is provided or on proper application would be provided.

(e) Definitions.—For the purposes of this section—

(1) The term "coal or uranium development activities" means the production, processing, or transportation of coal or uranium.

(2) The term "site development" means necessary off-site improvements, such as the construction of sewer and water connections, construction of access roads, and appropriate site restoration, but does not include any portion of the construction of housing or public facilities.

Transmittal to Secretary of Energy.

Contents.

(f) Reports.—Any person regularly engaged in any coal or uranium development activity within an area designated and approved under subsection (a) shall prepare and transmit a report to the Secretary of Energy within 90 days after a written request to such person by the Governor of the State in which such area is located. Such report shall include—

(1) projected employment levels for such activity by such person within such area during each of the following 3 calendar years;

(2) the projected increase in employees in such area to engage in such activity during each of such calendar years;

(3) the projected quantity of coal (or uranium) to be produced, processed, or transported by such person during each of such calendar years; and

(4) actions such companies plan to take or are taking to provide needed housing and other facilities for their employees directly or by providing funds to the States or local communities for this purpose.

Copies, availability and public review.
15 USC 796.

Copies of the report shall be provided to the Secretary of Energy and the Secretary shall, subject to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, provide the report to the Secretary of Agriculture, the Governor, and the appropriate county or local officials and make it available for public review.

(g) Administration.—The Secretary of Agriculture shall carry out his responsibilities under this section through the Farmers Home Administration and such other agencies within the Department of Agriculture as he may determine appropriate.

Agreement, funds allocation and transfer.

(h) Appropriations Authorization.—(1) There is hereby authorized to be appropriated to the Secretary of Energy for purposes of this section, $60,000,000 for fiscal year 1979 and $120,000,000 for fiscal year 1980. The Secretary of Energy and the Secretary of Agriculture shall enter into an agreement for the allocation of funds appropriated pursuant to this section for carrying out their respective responsibilities under this section, including the amounts for personnel and administrative costs, and upon such agreement, the Secretary of Energy shall transfer to the Secretary of Agriculture amounts determined under that agreement.

(i) Protection From Certain Hazardous Actions.—Federal agencies having responsibilities concerning the health and safety of any person working in any coal, uranium, metal, or nonmetallic mine regulated by any Federal agency shall interpret and utilize their authorities fully and promptly, including the promulgation of standards and regulations, to protect existing and future housing, property, persons, and public facilities located adjacent to or near active and abandoned coal, uranium, metal, and nonmetallic mines from actions occurring at such activities that pose a hazard to such property or persons.

(j) Reorganization.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this section may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of this Act. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any officer, employee, or entity within such Secretary's department. 5 USC 901 *et seq.*

SEC. 602. LOANS TO ASSIST POWERPLANT ACQUISITIONS OF AIR POLLUTION CONTROL EQUIPMENT.

(a) Authority To Make Loans.—The Secretary may, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, make a loan (and may make a commitment to loan) to any person who owns or operates any existing electric powerplant converting to coal or other alternate fuel as its primary energy source after the effective date of this Act for the purpose of financing the purchase and installation of one or more certified air pollution control devices for such electric powerplant. 42 USC 8402.

(b) Limitations and Conditions.—A loan made under this section shall—

(1) not exceed two-thirds of the cost of purchasing and installing the certified air pollution control devices;

(2) have a maturity date not extending beyond 10 years after the date such loan is made;

(3) bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield of outstanding Treasury obligations of comparable maturity, plus (B) 1 percent; Interest rate.

(4) be made on the condition of payment to the Secretary of a loan fee in an amount equal to (A) such insurance fee as the Secretary determines is necessary to avoid a Federal revenue loss under this section, plus (B) 1 percent of the loan amount; and

(5) be made only if the Secretary finds that—

(A) the financial assistance applied for is not otherwise available from other Federal agencies;

(B) the applicant is unable to obtain sufficient funds on reasonable terms and conditions from any other source;

(C) there is continued reasonable assurance of full repayment of the principal, interest, and fees; and

(D) competition among private entities for the provision of air pollution control devices for electric powerplants using coal as their primary energy source to be assisted under this section will be in no way limited or precluded.

(c) Allocation and Priorities.—In making loans or commitments to loan pursuant to this section, the Secretary shall—

(1) allocate a minimum of 25 percent of available financial assistance to existing small municipal and rural powerplants; and

(2) give priority consideration to requests for financial assistance by existing electric powerplants subject to any prohibition under title III (or under section 2 of the Energy Supply and Environmental Coordination Act of 1974). *Ante*, p. 3305. 15 USC 792.

(d) Definitions.—For purposes of this section—

(1) The term "certified pollution control device" means a new identifiable device which—

(A) is used, in connection with a powerplant, to abate or control atmospheric pollution by removing, altering, disposing, storing, or preventing the emission of pollutants;

(B) the appropriate State air pollution control agency has certified to the Administrator of the Environmental Protection Agency that such device is needed to meet, and is in conformity with, State requirements for abatement or control of atmospheric pollution or contamination;

(C) the Administrator of the Environmental Protection Agency has certified to the Secretary as not duplicating or displacing existing air pollution control devices with a remaining useful economic life in excess of 2 years and as otherwise being in furtherance of the requirements and purposes of the Clean Air Act;

42 USC 7401 note.

(D) does not constitute or include a building, or a structural component of a building, other than a building used exclusively for the purposes set forth in subparagraph (A); and

(E) the construction of which began after the effective date of this Act.

(2) The term "small municipal or rural cooperative electric powerplant" means an electric generating unit, which—

(A) by design is not capable of consuming fuel at a fuel heat input rate in excess of a rate determined appropriate by the Secretary by rule; and

(B) is owned or operated by a municipality or a rural electric cooperative.

(e) Records.—(1) The Secretary shall require all persons receiving financial assistance under this section to keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Access.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the later of—

(A) the expiration of 3 years after completion of the project or undertaking referred to in subsection (a), or

(B) full repayment of interest and principal on a loan made under this section, occurs,

have access for the purposes of audit, evaluation, examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to such loan.

(f) Default.—(1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Secretary under this section and such default has continued for 90 days, the Secretary has the right to demand payment of such unpaid amount, unless the Secretary finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligor has been accepted by the Secretary.

(2) In demanding payment of unpaid interest or principal by the obligor, the Secretary has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such loan or related agreements.

Notification of Attorney General.

(3) If there is a default under any loan, the Secretary shall notify the Attorney General who shall take such action against the obligator or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit.

(g) Deposit of Receipts.—Amounts received by the Secretary as principal, interest, fees, proceeds from security acquired following default, or other amounts received by the Secretary in connection with loans made under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

(h) Authorization of Appropriation.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section, but not to exceed $400,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980. Authority granted to the Secretary under subsection (a) may be exercised only to the extent as may be provided in advance in appropriation Acts.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

Subtitle A—Procedures

SEC. 701. ADMINISTRATIVE PROCEDURES.

42 USC 8411.

(a) General Rule Making.— Except to the extent otherwise provided in this section or other provisions of this Act, rules prescribed under this Act shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code.

Publication in Federal Register.

(b) Notices of Rules and Orders Imposing Prohibitions.—Before the Secretary prescribes any rule or issues any order imposing a prohibition under this Act (other than under section 402), he shall publish such proposed rule or order in the Federal Register, together with a statement of the reasons for such rule or order and, in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. A copy shall be transmitted to the person who operates any such powerplant or installation required to be specifically identified in such rule or order.

(c) Petitions for Exemptions.—(1) Any petition for an exemption from any prohibition under this Act or for any permit under section 405, shall be filed at such time and shall be in such form as the Secretary shall by rule prescribe. The Secretary, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a statement of the reasons set forth in such a petition for requesting such exemption or permit, and provide a period of public comment of at least 45 days for written comments thereon. Rules required under this paragraph shall be prescribed not later than 120 days after the date of the enactment of this Act.

Publication in Federal Register. Public comment period.

(2) The Secretary, upon receipt of such petition, shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of the electric powerplant or, where appropriate, major fuel-burning installation which is the subject of such petition, and, to the maximum extent practicable, consult with such agencies.

Publication in Federal Register.

(3) The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption or permit, shall issue a final order granting or denying the petition for such exemption or permit, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.

(4) Any order for the approval of a system compliance plan under section 501, and any petition for such an order, shall be treated for purposes of this title the same as an order (or petition) for an exemption.

(d) PUBLIC COMMENT ON PROHIBITIONS AND EXEMPTIONS.—(1) In the case of any proposed rule or order by the Secretary imposing a prohibition or any petition for any order granting an exemption (or permit) under this Act (other than under section 402), any interested person shall be afforded an opportunity to present oral data, views, and arguments at a public hearing. At such hearing any interested person shall have an opportunity to question—

Public hearing.

(A) other interested persons who make oral presentations,

(B) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of such petition, and

(C) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation,

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

Evidence.

(2) A rule or order subject to this section may not be issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.

(e) TRANSCRIPT.—A transcript shall be kept of any public hearing made in accordance with this section.

(f) ENVIRONMENTAL PROTECTION AGENCY COMMENT.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404), or a petition for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency and the Secretary shall request such agency to comment thereon within the period provided to the public unless a longer period is provided under the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same oppor-

42 USC 7401 note.

tunity to comment and question as is provided other interested persons under subsection (d).

(g) Federal Trade Commission Comment.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404) with respect to a major fuel-burning installation or a boiler subject to section 401 or a petition by such installation or boiler for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public. In any such case, the Federal Trade Commission shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d).

(h) Coordination With Other Provisions of Law.—(1) Except as provided in sections 702(c)(4), 723(d)(5), and 724 of this Act, title V of the Department of Energy Organization Act (42 U.S.C. 7191, et seq.) shall not apply with respect to this Act.

(2) The preceding provisions of this section shall not apply with respect to any exercise of authority under section 404.

(3) The procedures applicable under this Act shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this Act (or provisions of law cited herein), or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this Act, and declaring that such provision supersedes, in whole or in part, the procedures of this Act.

SEC. 702. JUDICIAL REVIEW.

42 USC 8412.
Publication in Federal Register.

(a) Publication and Delay of Prohibition or Exemption To Allow for Review.—Any final rule or order prescribed by the Secretary imposing a prohibition or granting an exemption (or permit) under this Act shall be published in the Federal Register, and shall not take effect earlier than the 60th calendar day after such rule or order is published.

Publication in Federal Register.

(b) Publication of Denial of Exemption or Permit.—Any final order issued by the Secretary denying any petition for an exemption or a permit under this Act shall be published in the Federal Register, together with the reasons for such action.

Transmittal to Secretary.
Written submissions and transcript.

(c) Judicial Review.—(1) Any person aggrieved by any final rule or order referred to in subsection (a) or in section 404, or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b), may at any time before the 60th day after the date such rule, order, or denial is published under subsection (a) or (b), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule or order was based as provided in section 2112 of title 28, United States Code.

5 USC 701 *et seq.*

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule, order, or denial in accordance with chapter 7 of title 5, United States Code, and to

grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule, order, or denial shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) Subject to the direction and control of the Attorney General, as provided in section 519 of title 28, United States Code, attorneys appointed by the Secretary may appear for and represent the Secretary in any proceeding instituted under this section in accordance with section 502(c) of the Department of Energy Organization Act. 42 USC 7192.

Subtitle B—Information and Reporting

SEC. 711. INFORMATION.

42 USC 8421. (a) Authority of Secretary.—For purposes of carrying out his responsibilities under this Act, the Secretary may require, under the authority of this Act or any other authority administered by him, any person owning, operating or controlling any electric powerplant or major fuel-burning installation, or any other person otherwise subject to this Act to submit such information and reports of any kind or nature directly to the Secretary necessary to implement the provisions of this Act and insure compliance with the provisions of this Act, and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act. 15 USC 796.

(b) Authority of President and Federal Energy Regulatory Commission.—In the case of responsibilities expressly given by this Act to the President or the Federal Energy Regulatory Commission, subsection (a) shall be applied as if the references to the Secretary were references to the President or the Federal Energy Regulatory Commission, as the case may be.

SEC. 712. COMPLIANCE REPORT.

42 USC 8422. Any person owning, operating, or proposing to operate one or more existing electric powerplants required to come into compliance with the prohibitions of this Act shall on or before January 1, 1980, and annually thereafter, submit to the Secretary a report identifying all such existing electric powerplants owned or operated by such person. Such report shall— Contents.

(1) set forth the anticipated schedule for compliance with the applicable requirements and prohibitions by each such electric powerplant;

(2) indicate proposed or existing contracts or other commitments or good faith negotiations for such contracts or commitments for coal or another alternate fuel, equipment, or combinations thereof, which would enable such powerplant to comply with such prohibitions; and

(3) identify those electric powerplants, if any, for which application for temporary or permanent exemption from the prohibitions of this Act may be filed.

Subtitle C—Enforcement

SEC. 721. NOTICE OF VIOLATION; OTHER GENERAL PROVISIONS.

42 USC 8431.

(a) Notice of Violation.—(1) Whenever, on the basis of any information available, the Secretary finds that any person is in violation of any provision of this Act, or any rule or order thereunder, the Secretary shall issue notice of such violation. Any notice issued under this subsection shall be in writing and shall state with reasonable specificity the nature of the violation.

(2) Paragraph (1) shall not be construed to relieve any person of liability under the other provisions of this Act for any act or omission occurring before the issuance of notice.

(b) Individual Liability of Corporate Personnel.—Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this Act, or any rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under section 722, unless he also knew of noncompliance by the corporation or had received from the Secretary notice of noncompliance by the corporation.

(c) Liability for Certain Peakload Operation.—No person shall be subject to any penalty under this subtitle with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Secretary that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant—

(1) were unavailable for service—

(A) due to unit or system outages; or

(B) because operation of such other powerplants would result in their exceeding the hours of operation allowed under an exemption; and

(2) have not been operated other than to meet peakload demand.

(d) Federal Agencies.—The provisions of sections 722 and 723 shall not be construed to apply to any Federal agency or officer or employee thereof acting in his official capacity.

SEC. 722. CRIMINAL PENALTIES.

42 USC 8432.

Any person who willfully violates any provision of this Act (other than section 402), or any rule or order thereunder, shall be subject to a fine of not more than $50,000, or to imprisonment for not more than one year, or both, for each violation.

SEC. 723. CIVIL PENALTIES.

42 USC 8433.

(a) General Civil Penalty.—Any person who violates any provision of this Act (other than section 402), or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Secretary, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

(b) Civil Penalties for Operation or Use of Fuels in Excess of Exemption.—(1) In the case of any electric powerplant granted an exemption, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per barrel of petroleum or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(2) Any person operating a major fuel-burning installation granted an exemption which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per barrel of petroleum or $3 per Mcf of natural gas which was used in excess of that use allowed by such exemption.

(c) PENALTIES FOR VIOLATION OF SECTION 402.—(1) Any person who violates any prohibition under subsection (b) (1) of section 402 with respect to providing of natural gas service to any person for use in outdoor lighting shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 for each outdoor lighting fixture involved.

(2) Any industrial user who violates prohibition under subsection (b) (2) of section 402 shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 per day of violation for each outdoor lighting fixture involved which was used by an industrial customer, but not to exceed $5,000 per outdoor lighting fixture involved.

(3) The penalties under this subsection shall only apply in the case of a violation by any person who at the time of the violation had knowledge or reasonably should have had knowledge that the action involved was prohibited under section 402.

(d) ASSESSMENT.—(1) Before issuing an order assessing a civil penalty against any person under this Act, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

Agency hearing.

(2) (A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

5 USC 701 note.

(3) (A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

Payment.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

Failure to pay.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

42 USC 7192.

(5)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

42 USC 7172.

(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection.

SEC. 724. INJUNCTIONS AND OTHER EQUITABLE RELIEF.

42 USC 8434.

42 USC 7192.

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this Act, or any rule or order thereunder, a civil action, may be brought, in accordance with section 502(c) of the Department of Energy Organization Act, in the appropriate district court of the United States to enjoin such acts or practices, and, upon a proper showing, the court shall grant, without bond, mandatory or prohibitive injunctive relief, including interim equitable relief.

SEC. 725. CITIZENS SUITS.

42 USC 8435.

(a) General Rule.—Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against the Secretary or the head of any Federal agency which has a responsibility under this Act if there is an alleged failure of the Secretary or such agency head to perform any act or duty under this Act which is not discretionary. The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) Notice to Secretary or Agency Head.—No action may be commenced under subsection (a) before the 60th calendar day after the date on which the plaintiff has given notice of such action to the Secretary or the agency head involved. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by rule.

(c) Authority of Secretary To Intervene.—In any action brought under subsection (a), the Secretary, if not a party, may intervene as a matter of right.

(d) Costs of Litigation.—The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) Other Remedies To Remain Available.—Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this Act or any rule thereunder, or to seek any other relief (including relief against the Secretary or the agency head involved).

Subtitle D—Preservation of Contractual Rights

SEC. 731. PRESERVATION OF CONTRACTUAL INTEREST.

42 USC 8441.

(a) Right To Transfer Contractual Interests.—(1) If any person receives natural gas, the use of which is prohibited by the provisions of title II or title III or any rule or order thereunder, and if such natural gas is received pursuant to a contract in effect on April 20, 1977, between such person and any other person, such person receiving such natural gas may transfer all or any portion of such person's contractual interests under such contract and receive consideration from the person to whom such contractual interests are transferred. The consideration authorized by this subsection shall not exceed the maximum consideration established as just compensation under this section.

(2) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred pursuant to paragraph (1) shall be entitled to receive just compensation (as determined by the Commission) from the person to whom such contractual interests are transferred.

(b) Determination of Consideration.—(1) The Commission shall, by rule, establish guidelines for the application on a regional or national basis (as may be appropriate) of the criteria specified in subsection (e)(1) to determine the maximum consideration permitted as just compensation under this section.

(2) The person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are transferred may agree on the amount of, or method of determining, the consideration to be paid for such transfer and certify such consideration to the Commission. Except as provided in paragraph (4), such agreed-upon consideration shall not exceed the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1).

(3) In the event the person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are to be transferred fail to agree, under paragraph (2), on the amount of, or method of determining, the consideration to be paid for such trans-

fer, the Commission may, at the request of both such persons, prescribe the amount of, or method of determining, such consideration. Upon the request of either such person, the Commission shall make such determination on the record, after an opportunity for agency hearing. In any such latter case, the determination of the Commission shall be binding upon the party requesting that such determination be made on the record of the agency hearing. The consideration prescribed by the Commission shall not exceed the maximum consideration permitted as just compensation under this section. In prescribing the amount of, or method of determining, consideration under this paragraph, to the maximum extent practicable, the Commission shall utilize any liquidated damages provision set forth in the applicable contract, but in no event may the Commission prescribe consideration in excess of the maximum consideration permitted as just compensation under this section.

Agency hearing.

(4) In the event that the consideration agreed upon under paragraph (2) exceeds the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1), the Commission may approve such agreed-upon consideration if the Commission determines such agreed-upon consideration does not exceed the maximum consideration permitted as just compensation under this section.

(5) If consideration is agreed upon under paragraph (2) and such consideration exceeds the consideration determined by application of the guidelines prescribed under paragraph (1), but does not exceed the maximum consideration permitted as just compensation under this section, the Commission may not require a refund of any portion of the agreed-upon consideration paid with respect to deliveries of natural gas occurring prior to the Commission's action under paragraph (4) approving or disapproving such consideration unless the Commission determines—

(A) such agreed-upon consideration was fraudulently established;

(B) the processing of the request for approval of such agreed-upon consideration under paragraph (4) was willfully delayed by a party to the transfer; or

(C) such agreed-upon consideration exceeds the maximum consideration permitted as just compensation under this section.

(c) RESTRICTIONS ON TRANSFERS UNENFORCEABLE.—(1) Any provision of any contract, which prohibits any transfer authorized by subsection (a)(1) or terminates such contract on the basis of such transfer, shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (a)(1).

(d) CONTRACTUAL OBLIGATIONS UNAFFECTED.—The person acquiring contractual interests transferred pursuant to subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This subsection shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

(e) DEFINITIONS.—For purposes of this section—

(1) The term "just compensation", when used with respect to any transfer of contractual interests authorized by subsection (a)(1),

means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (excluding capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred under subsection (a)(1), in direct association with the use of a fuel, other than natural gas, as a primary energy source by the applicable existing electric powerplant or major fuel-burning installation, exceed

(B) the price of natural gas under such contract during such period.

For purposes of subparagraph (A), the reasonable costs associated with the use of a fuel, other than natural gas, as a primary energy source shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises containing such electric powerplant or major fuel burning installation, which assets were directly associated with the use of natural gas and are not usable in connection with the use of such other fuel.

(2) The term "just compensation", when used with respect to subsection (a)(2), means an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (a)(1), to the extent such loss (A) is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests pursuant to subsection (a)(1), and (B) is not offset by revenues derived from other transportation or distribution which would not have occurred if such contractual interests had not been transferred.

(3) The term "contractual interests", with respect to a contract described in subsection (a)(1), includes the right to receive natural gas as affected by any applicable curtailment plan filed with the Commission or the appropriate State regulatory authority.

(4) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(5) The term "interstate pipeline" means any person engaged in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission under the Natural Gas Act. 15 USC 717w.

(6) The term "Commission" means the Federal Energy Regulatory Commission.

(7) The term "contract", when used with respect to a contract for receipt of natural gas, which contract was in existence on April 20, 1977, does not include any renewal or extension occurring after such date unless such renewal or extension occurs pursuant to the exercise of an option by the person receiving natural gas under such contract.

(f) COORDINATION WITH THE NATURAL GAS ACT.—(1) Consideration paid by any interstate pipeline pursuant to this section shall be deemed just and reasonable for purposes of sections 4, 5, and 7 of the Natural Gas Act. The Commission shall not deny a passthrough by such interstate pipeline of such consideration based upon the amount of such consideration paid pursuant to this section. 15 USC 717c, 717d, 717f.

15 USC 717w. (2) No person shall be subject to the jurisdiction of the Commission under the Natural Gas Act or to regulation as a common carrier under any provision of Federal or State law solely by reason of making any sale, or engaging in any transportation, of natural gas with respect to

which the transfer of contractual interests is authorized under subsection (a)(1).

(3) Nothing in this section shall exempt from the jurisdiction of the Commission under the Natural Gas Act any transportation in interstate commerce of natural gas, any sale in interstate commerce for resale of natural gas, or any person engaged in such transportation or such sale to the extent such transportation, sale or person is subject to the juridiction of the Commission under such Act without regard to the transfer of contractual interests under subsection (a)(1). 15 USC 717w.

(4) Nothing in this section shall exempt any person from any obligation to obtain a certificate of public convenience and necessity for the transportation by an interstate pipeline of natural gas with respect to which the transfer of contractual interests is authorized under subsection (a)(1). The Commission shall not deny such a certificate for the transportation in interstate commerce of natural gas based upon the amount of consideration paid pursuant to this section.

(g) Volume Limitation.—No supplier of natural gas under any contract, with respect to which contractual interests have been transferred under subsection (a)(1), shall be required to supply natural gas during any relevant period in volume amounts which exceed the lesser of—

(1) the volume determined by reference to the maximum delivery obligations specified in such contract;

(2) the volume which such supplier would have been required to supply, under the curtailment plan in effect for such supplier, to the person, who transferred contractual interests under subsection (a)(1), if no such transfer had occurred;

(3) the volume which would have been delivered, or for which payment would have been made, pursuant to such contract but for the prohibition on the use of such natural gas under title II or title III of this Act or any rule or order thereunder; and *Ante*, pp. 3298, 3305.

(4) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

(h) Judicial Review.—Any action by the Commission under this section is subject to judicial review in accordance with chapter 7 of title 5, United States Code.

Subtitle E—Studies

SEC. 741. NATIONAL COAL POLICY STUDY.

(a) Study.—The President, acting through the Secretary and the Administrator of the Environmental Protection Agency, shall make a full and complete investigation and study of the alternative national uses of coal available in the United States to meet the Nation's energy requirements consistent with national policies for the protection and enhancement of the quality of the environment and for economic recovery and full employment. In particular the study should identify and evaluate— 42 USC 8451.

(1) current and prospective coal requirements of the United States;

(2) current and prospective voluntary and mandatory energy conservation measures and their potential for reduction of the United States coal requirements;

(3) current and prospective coal resource production, transportation, conversion, and utilization requirements;

(4) the extent and adequacy of coal research, development, and demonstration programs being carried out by Federal, State, local, and nongovernmental entities (including financial resources, manpower, and statutory authority);

(5) programs for the development of coal mining technologies which increase coal production and utilization while protecting the health and safety of coal miners;

(6) alternative strategies for meeting anticipated United States coal requirements, consistent with achieving other national goals, including national security and environmental protection;

(7) existing and prospective governmental policies and laws affecting the coal industry with the view of determining what, if any, changes in and implementation of such policies and laws may be advisable in order to consolidate, coordinate, and provide an effective and equitable national energy policy consistent with other national policies; and

(8) the most efficient use of the Nation's coal resources considering economic (including capital and consumer costs, and balance of payments), social (including employment), environmental, technological, national defense, and other aspects.

(b) Report.—Within 18 months after the effective date of this Act, the President shall submit to the Congress a report with respect to the studies and investigations, together with findings and recommendations in order that the Congress may have such information in a timely fashion. Such report shall include the President's determinations and recommendations with respect to—

(1) the Nation's projected coal needs nationally and regionally, for the next 2 decades with particular reference to electric power;

(2) the coal resources available or which must be developed to meet those needs, including, as applicable, the programs for research, development, and demonstration necessary to provide technological advances which may greatly enhance the Nation's ability to efficiently and economically utilize its fuel resources, consistent with applicable environmental requirements;

(3) the air, water, and other pollution created by coal requirements, including any programs to overcome promptly and efficiently any technological or economic barriers to the elimination of such pollution;

(4) the existing policies and programs of the Federal Government and of State and local governments, which have any significant impact on the availability, production or efficient and economic utilization of coal resources and on the ability to meet the Nation's energy needs and environmental requirements; and

(5) the adequacy of various transportation systems, including roads, railroads, and waterways to meet projected increases in coal production and utilization.

Publication in Federal Register. Public availability.

Before submitting a report to the Congress under subsection (b), the President shall publish in the Federal Register a notice and summary of the proposed report, make copies of such report available, and accord interested persons an opportunity (of not less than 90 days' duration) to present written comments; and shall make such modifications of such report as he may consider appropriate on the basis of such comments.

(c) Authorization of Appropriations.—There is hereby authorized to be appropriated to the Secretary for allocation between the Department of Energy and the Environmental Protection Agency for fiscal years 1979 and 1980, not to exceed $18,000,000, for use in carrying out the purposes of this section.

SEC. 742. COAL INDUSTRY PERFORMANCE AND COMPETITION STUDY.

42 USC 8452.

Interagency participants.

(a) Study.—The Secretary shall make a complete investigation of the performance and competition of the coal industry. The study shall be an interagency effort under the direction of the Secretary and shall include participation by—

(1) the Federal Trade Commission,
(2) the Department of Justice,
(3) the Department of Energy,
(4) the Federal Energy Regulatory Commission,
(5) the Department of the Interior,
(6) the Department of Transportation,
(7) the Department of Commerce,
(8) the Department of Labor,
(9) the Department of State,
(10) the Department of the Treasury,
(11) the Interstate Commerce Commission,
(12) the Council on Wage and Price Stability,
(13) the Tennessee Valley Authority, and
(14) the Appalachian Regional Commission.

(b) Coverage of Study.—The study shall consider the following elements relating to competition:

(1) interests in, or ownership or production of, coal reserves by firms which—

(A) own or have an interest in commodity transportation systems by rail, water, or pipeline,

(B) own or produce oil, natural gas, or uranium, or

(C) use significant amounts of coal in their processes, including electrical generation and steelmaking,

(2) prices, profitability, and levels of concentration in sales of various identifiable submarket structures in the coal industry, including the market for—

(A) steam and metallurgical coal,
(B) low-sulfur coal,
(C) lignite, anthracite, bituminous and subbituminous coal,
(D) spot sales and long-term delivery contracts, and
(E) exports,

(3) overall profitability of coal operations,

(4) capital requirements, sources and uses of funds,

(5) vertical integration of production, cleaning, processing, gasification, liquefaction, transportation, marketing, distribution, combustion, and other phases of the coal fuel cycle,

(6) the effect of interfuel ownership, vertical integration, and market concentration upon innovation, efficiency, prices and profits,

(7) costs of production, transportation, processing, and other components of coal prices for different regions and different types of mines,

(8) responsiveness of coal supply to market demand,

(9) productive capacity,

(10) productivity,

(11) economies and diseconomies of scale,

(12) distribution and flow of executive, managerial, and technical personnel between the various coal producers,

(13) management and directorate interlocks,

(14) relationships to financial institutions,

(15) government-industry relationships, including lease bidding, technology, research, development, demonstration and transfer, and personnel movement,

(16) joint ventures, consortia, and cross-ownership,

(17) identification of the major owners of coal industry stock,

(18) control of patents and technologies,

(19) barriers to greater competition in the market for coal, and

(20) Federal income tax policies.

(c) Impacts on Coal-Producing Counties and States.—The study shall evaluate the economic and social impacts upon coal-producing counties and States of present and prospective land ownership patterns and levels of income, property, severance and other taxes paid by coal producers.

(d) Export of Metallurgical Coal.—The study shall identify and evaluate national policies toward the export of metallurgical coal as they relate to—

(1) national security,

(2) national energy goals,

(3) balance of payments,

(4) comparative advantage in world trade,

(5) materials policy,

(6) United States and international reserves and resources, and

(7) likely future metallurgical technologies.

(e) Reports.—(1) Pursuant to the provisions of the preceding subsections of this section, the Secretary shall submit to the President for transmittal to the Congress such interim reports as he deems advisable and, not later than 18 months after the effective date of this Act, a comprehensive and final report to the Congress containing the findings with respect to such study and investigation. Such report may include such legislative and administrative recommendations as the President deems advisable.

Publication in Federal Register. Public availability.

(2) Before submitting a report to the Congress under paragraph (1), the President shall—

(A) publish in the Federal Register a notice and summary of the proposed report and make copies of such report available and afford interested persons an opportunity (of not less than 90 days' duration) to present written comments; and

(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

(f) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary for allocation between the Department of Energy and the other agencies participating in the study under this section for the fiscal years 1979 and 1980, not to exceed $18,000,000 to carry out the provisions of this section.

SEC. 743. IMPACT ON EMPLOYEES.

42 USC 8453.

(a) Evaluation.—The Secretary shall conduct continuing evaluations of potential loss or shifts of employment which may result from any prohibition under this Act, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such prohibition. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) INVESTIGATION AND HEARINGS.—On a written request filed with the Secretary by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such prohibition, the Secretary shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Secretary shall require the parties, including any employer involved, to present information on the actual or potential effect of such prohibition on employment and on any alleged employee discharge, layoff, or other discrimination relating to prohibitions and the detailed reasons or justification therefor. At the completion of such investigation, the Secretary shall make findings of fact as to the effect of such prohibition on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. The Secretary of Labor shall participate in each such investigation.

Public availability. Participation by Secretary of Labor.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require or authorize the Secretary to modify or withdraw any prohibition under this Act.

SEC. 744. STUDY OF COMPLIANCE PROBLEM OF SMALL ELECTRIC UTILITY SYSTEMS.

42 USC 8454.

(a) STUDY.—The Secretary shall conduct a study of the problems of compliance with this Act experienced by those electric utility systems which have a total system generating capacity of less than 2,000 megawatts. The Secretary shall report his findings and his recommendations to the Congress not later than 2 years after the effective date of this Act.

Report to Congress.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the fiscal year 1979 not to exceed $500,000 to carry out the provisions of this section.

SEC. 745. EMISSIONS MONITORING.

42 USC 8455.

(a) MONITORING PROGRAM.—The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other alternate fuels by reason of this Act or otherwise using coal or other alternate fuels and the effect thereof on the public health, safety, and welfare and the movement of such emissions in the atmosphere and their impact on land and water and other resources and the public health in various regions of the Nation. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

42 USC 7401 note.

Annual report to Congress. Consultation.

(b) APPROPRIATIONS AUTHORIZATIONS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1979 for the report required under section 806.

SEC. 746. SOCIOECONOMIC IMPACTS OF INCREASED COAL PRODUCTION AND OTHER ENERGY DEVELOPMENT.

42 USC 8456.

(a) COMMITTEE.—There is hereby established an interagency committee composed of the heads of the Departments of Energy, Commerce, Interior, Transportation, Housing and Urban Development, and Health, Education, and Welfare, the Environmental Protection Agency, the Appalachian Regional Commission, the Farmers' Home Administration, the Office of Management and Budget, and such other Federal agencies as the Secretary shall designate. In carrying out its functions the committee shall consult with the National Governors' Conference and interested persons, organizations, and entities. The chairman of the committee shall be designated by the President. The committee shall terminate 90 days after the submission of its report under subsection (c).

Termination.

(b) FUNCTIONS OF COMMITTEE.—It is the function of the committee to conduct a study of the socioeconomic impacts of expanded coal production and rapid energy development in general, on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. The committee shall gather data and information on—

(1) the level of assistance provided under this Act and any other programs related to impact assistance,

(2) the timeliness of assistance in meeting impacts caused by Federal decisions on energy policy as well as private sector decisions, and

(3) the obstacles to effective assistance contained in regulations of existing programs related to impact assistance.

(c) REPORT.—Within 1 year after the effective date of this Act, the committee shall submit a detailed report on the results of such study to the Congress, together with any recommendations for additional legislation it may consider appropriate.

SEC. 747. USE OF PETROLEUM AND NATURAL GAS IN COMBUSTORS.

42 USC 8457.

The Secretary shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors and installations not subject to the prohibitions of this Act. In conducting such study, the Secretary shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other alternate fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Report to Congress.

Within 1 year after the effective date of this Act, the Secretary shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

Subtitle F—Appropriations Authorization

SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

42 USC 8461.

There is authorized to be appropriated to the Secretary for fiscal year 1979 $11,900,000, to carry out the provisions of this Act (other than provisions for which an appropriations authorization is otherwise expressly provided in this Act) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

15 USC 792.

Subtitle G—Coordination with other Provisions of Law

SEC. 761. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

(a) Compliance With Applicable Environmental Requirements.—Except as provided in section 404, nothing in this Act shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements.

42 USC 8471.
Ante, p. 3319.

(b) Local Environmental Requirements.—In the case of any new or existing facility—

(1) which is subject to any prohibition under this Act, and

(2) which is also subject to any requirement of any local environmental requirement which may be stricter than any Federal or State environmental requirement,

the existence of such local requirement shall not be construed to affect the validity or applicability of such prohibition to such facility, except to the extent provided under section 212(b) or section 312(b); and the existence of such prohibition shall not be construed to preempt such local requirement with respect to that facility.

Ante, pp. 3300, 3309.

SEC. 762. EFFECT OF ORDERS UNDER SECTION 2 OF ESECA; AMENDMENTS TO ESECA.

(a) Effect of Construction Orders.—Any electric powerplant or major fuel-burning installation issued an order pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 that is pending on the effective date of this Act shall, notwithstanding the provisions of such section 2(c) or any other provision of this Act, be subject to the provisions of this Act as if it were a new electric powerplant or new major fuel-burning installation, as the case may be, except that if such order became final before such date, the provisions of title II of this Act shall not apply to such powerplant or installation.

42 USC 8472.
15 USC 792.
Ante, p. 3298.

(b) Effect of Prohibition Orders.—The provisions of titles II and III shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this Act is pending or final or which, on review, was held unlawful and set aside on the merits; except that any installation issued such an order under such section 2(a) which is pending on the effective date of this Act may elect to be covered by title II or III (as the case may be) rather than such section 2. Such an election shall be irrevocable and shall be made in such form and manner as the Secretary shall, within 90 days after the date of the enactment of this Act, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary prescribes the form and manner of making such election.

Ante, pp. 3298, 3305.
15 USC 792.

(c) Validity of Orders.—The preceding provisions of this Act shall not affect the validity of any order issued under subsection (a), or any final order under subsection (c), of section 2 of the Energy Supply and Environmental Coordination Act of 1974, and the authority of the Secretary to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto, shall remain in effect notwithstanding any limitation of time otherwise applicable to such authority. Except as provided in this section, the authority of the Secretary under section 2 of such Act shall terminate on the effective date of this Act.

15 USC 792.

(d) AMENDMENTS TO ESECA.—(1) Section 11(g) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

15 USC 796.

(1) by striking out paragraph (2), and

(2) in paragraph (1), by striking out "(g)(1)" and inserting in lieu thereof "(g)".

SEC. 763. ENVIRONMENTAL IMPACT STATEMENTS UNDER NEPA.

42 USC 8473.

42 USC 4332.

The following actions are not deemed to be major Federal actions for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969:

(1) the grant or denial of any temporary exemption under this Act for any electric powerplant or major fuel-burning installation;

(2) the grant or denial of any permanent exemption under this Act for any existing electric powerplant or major fuel-burning installation, other than an exemption—

Ante, p. 3309.

(A) under section 312(c), relating to cogeneration;

(B) under section 312(l), relating to scheduled equipment outages;

(C) under section 312(b), relating to certain State or local requirements;

(D) under section 312(g), relating to certain intermediate load powerplants; and

(3) the grant or denial of any exemption under this Act for any powerplant or major fuel-burning installation for which the Secretary finds, in consultation with the appropriate Federal agency, and publishes such finding that an environmental impact statement is required in connection with another Federal action and such statement will be prepared by such agency and will reflect the exemption adequately.

Except as provided in the preceding provisions of this section, any determination of what constitutes or does not constitute a major Federal action shall be made under section 102 of the National Environmental Policy Act of 1969.

42 USC 4332.

TITLE VIII—MISCELLANEOUS PROVISIONS

42 USC 8481.

SEC. 801. COAL RESERVES DISCLOSURE.

(a) DISCLOSURE.—Within 2 years after the effective date of this Act, and annually thereafter, the Secretary shall require the disclosure, pursuant to section 11 of the Energy Supply and Environmental Coordination Act of 1974, of the extent, characteristics, and productive capacity of coal reserves, or interest therein, within the United States held by any person or governmental entity, as necessary, and shall publish a summary of such information.

15 USC 796.

Publication in Federal Register.

(b) EXEMPTION FOR SMALL RESERVES.—The Secretary may exempt small reserves from the requirements of this section if the Secretary finds that the imposition of the requirements of this section would impose an unreasonable economic burden on such person (or entity) or would not be of significant aid to achievement of the purposes of this Act, and publishes such findings in the Federal Register.

SEC. 802. COAL PREPARATION FACILITIES.

Section 102(c)(4) of the Energy Policy and Conservation Act is amended by adding at the end thereof (42 U.S.C. 6211(c)(4)) the following new sentence: "Such term also includes construction of a coal preparation plant which is designed to reduce the sulfur content of coal produced from any coal mine.".

SEC. 803. RAILROAD REHABILITATION FOR CARRIAGE OF COAL.

(a) Statement of Purpose.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum. 45 USC 822 note.

(b) Authorization.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than $100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportaton of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose).

(c) Conforming Amendments.—(1) Section 501(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(2)) is amended by inserting "(except as provided in section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" immediately after "or other features".

(2) Section 502(b) of such Act (45 U.S.C. 822(b)) is amended by inserting at the end thereof the following: "Money appropriated to the Fund under section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum.".

(3) Section 502(f) of such Act (45 U.S.C. 822(f) is amended—

(A) by striking out "and" at the end of paragraph (5) thereof;

(B) by inserting between paragraphs (5) and (6) the following new paragraph:

"(6) funds as may hereafter be appropriated to the Fund as authorized under section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and"; and

(C) by redesignating paragraph (6) as paragraph (7).

(4) Section 502(i) of such Act (45 U.S.C. 822(i)) is amended—

(A) by striking out "and" at the end of paragraph (4) thereof;

(B) by striking out "Treasury." at the end of paragraph (5) and inserting in lieu thereof "Treasury, and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) to carry out the purposes of section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978".

(5) Section 505(b)(2) of such Act (45 U.S.C. 825) is amended by inserting between the fourth and fifth sentences thereof the following new sentence: "With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section

803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services.".

(6) Section 505(d)(3) of such Act (45 U.S.C. 825) is amended—

(A) by striking out in the first sentence "$600,000,000" and inserting in lieu thereof "$700,000,000", and

(B) by striking out in the second sentence "$100,000,000" and inserting in lieu thereof "$150,000,000".

SEC. 804. OFFICE OF RAIL PUBLIC COUNSEL.

49 USC 26b.

Section 27 of the Interstate Commerce Act is amended—

(1) by striking out "and" at the end of paragraph (4)(d),

(2) by striking out the period at the end of paragraph (4)(e) and inserting in lieu thereof "and", and

(3) by inserting after paragraph (4)(e) the following:

"(f) shall present the views of users, as well as the views of the general public and affected communities, and, where appropriate, providers of rail services in proceedings of Federal agencies concerning—

"(1) the impact of energy proposals and actions on rail transportation, and

"(2) whether transportation policies are consistent with National energy policies.".

SEC. 805. RETROACTIVE APPLICATION OF CERTAIN REMEDIAL ORDERS.

(a) General Rule.—Section 503 of the Department of Energy Organization Act (42 U.S.C. 7193) is amended by adding at the end thereof the following new subsection;

"(g) With respect to any person whose sole petroleum industry operation relates to the marketing of petroleum products, the Secretary or any person acting on his behalf may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against such person for any violation of any rule or regulation if—

"(1) such civil action or order is based on a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or ruling in effect on the date of the violation interpreting such rules or regulations.".

(b) Technical Conforming Amendments.—In subsections (e) and (f) of such section 503, insert "preceding provisions of" before "this section".

SEC. 806. ANNUAL REPORT.

42 USC 8482.

The Secretary shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this Act and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such report shall include data on the effectiveness of this Act in achieving the purposes of this Act.

15 USC 792.

SEC. 807. SUBMISSION OF REPORTS.

42 USC 8483.

Copies of any report required by this Act to be submitted to the Congress shall be separately submitted to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE IX—EFFECTIVE DATES

SEC. 901. EFFECTIVE DATES.

Unless otherwise provided in this Act, the provisions of this Act shall take effect 180 days after the date of the enactment of this Act, except that the Secretary may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment. 42 USC 8301 note.

SEC. 902. INTERIM PETITION AND CONSIDERATION FOR CERTAIN EXEMPTIONS.

(a) EXEMPTIONS IN THE CASE OF CERTAIN POWERPLANTS.—In the case of— 42 USC 8301 note.

(1) any electric powerplant which, as of April 20, 1977, has received a final decision from the appropriate State agency authorizing the construction of such powerplant, and

(2) any electric powerplant (A) consisting of one or more combined cycle units owned or operated by an electric utility which serves at least 2,000,000 customers and (B) for which an application has been filed for at least one year before the date of the enactment of this Act with the appropriate State agency for authorization to construct such powerplant,

the Secretary may receive, consider, and grant (or deny) any petition for an exemption under title II or III, notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time. *Ante*, pp. 3298, 3305.

(b) EXEMPTIONS UNDER SECTION 211(d).—The Secretary may receive, consider, and grant (or deny) any petition for any exemption under section 211(d), notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time. *Ante*, p. 3299.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-433 (Comm. on Ways and Means), No. 95-543, Vols. I and II accompanying H.R. 8444 (ad hoc Comm. on Energy), and No. 95-1749 (Comm. of Conference).
SENATE REPORT No. 95-988 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Sept. 8, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; insisted on House amendment to Senate amendment No. 6.
Vol. 124 (1978): July 14, 17, 18, Senate agreed to conference report.
Oct. 15, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-621
95th Congress

An Act

Nov. 9, 1978
[H.R. 5289]

For the relief of Joe Cortina of Tampa, Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Natural Gas Policy Act of 1978.

TITLE I—FOR THE RELIEF OF JOE CORTINA

Joe Cortina. Musical instruments, duty.

SEC. 101. Notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in section 102 of this title, covering certain musical instruments, shall be liquidated or reliquidated and, if appropriate, refund of duties made. Notwithstanding the provisions of General Headnote 3(e) of the Tariff Schedules of the United States (19 U.S.C. 1202) or any other provision of law, for purposes of the liquidations or reliquidations authorized by this title, such entries shall be appraised at invoice unit prices net, packed, and shall be subject to duty at the applicable rates set forth in column 1 of such schedules.

SEC. 102. The entries referred to in the first section of this title are as follows:

Entry number:	Date of entry
100284	July 14, 1972.
100607	July 27, 1973.
101233	August 18, 1972.
101426	September 1, 1972.
101756	September 14, 1972.
102217	October 15, 1973.
102394	October 7, 1971.
102483	October 15, 1971.
102687	November 15, 1971.
102706	July 8, 1973.
102711	November 17, 1971.
102781	October 20, 1972.
103117	December 16, 1971.
103252	November 8, 1972.
103275	December 28, 1971.
103576	November 22, 1972.
103638	November 27, 1972.
104335	December 21, 1972.
104301	March 8, 1972.
104920	January 16, 1973.
105205	April 10, 1972.
105996	May 15, 1972.
105998	March 2, 1973.
106002	May 15, 1972.
106730	June 21, 1972.
106731	June 21, 1972.
106888	June 29, 1972.
103114	December 16, 1971.
108444	June 11, 1973.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Natural Gas Policy Act of 1978". 15 USC 3301 note.

(b) TABLE OF CONTENTS.—

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Sec. 107. Ceiling price for high-cost natural gas.
Sec. 108. Ceiling price for stripper well natural gas.
Sec. 109. Ceiling price for other categories of natural gas.
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Sec. 201. Industrial boiler fuel use.
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Subtitle A—Emergency Authorities

Sec. 301. Declaration of Emergency.
Sec. 302. Emergency purchase authority.
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Sec. 312. Assignment of contractual rights to receive surplus natural gas.
Sec. 313. Effect of certain natural gas prices on indefinite price escalator clauses.
Sec. 314. Clauses prohibiting certain sales, transportation, and commingling.
Sec. 315. Contract duration; right of first refusal; filing of contracts and agreements.

TITLE IV—NATURAL GAS CURTAILMENT POLICIES

Sec. 401. Natural gas for essential agricultural uses.
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TITLE VI—COORDINATION WITH THE NATURAL GAS ACT; EFFECT ON STATE LAWS

Sec. 601. Coordination with the Natural Gas Act.
Sec. 602. Effect on State laws.

SEC. 2. DEFINITIONS.

15 USC 3301.

For purposes of this Act—

(1) Natural gas.—The term "natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

(2) Well.—The term "well" means any well for the discovery or production of natural gas, crude oil, or both.

(3) New well.—The term "new well" means any well—

(A) the surface drilling of which began on or after February 19, 1977; or

(B) the depth of which was increased, by means of drilling on or after February 19, 1977, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before February 19, 1977.

(4) Old well.—The term "old well" means any well other than a new well.

(5) Marker well.—

(A) General rule.—The term "marker well" means any well from which natural gas was produced in commercial quantities at any time after January 1, 1970, and before April 20, 1977.

(B) New wells.—The term "marker well" does not include any new well under paragraph (3)(A) but includes any new well under paragraph (3)(B) if such well qualifies as a marker well under subparagraph (A) of this paragraph.

(6) Reservoir.—The term "reservoir" means any producible natural accumulation of natural gas, crude oil, or both, confined—

(A) by impermeable rock or water barriers and characterized by a single natural pressure system; or

(B) by lithologic or structural barriers which prevent pressure communication.

(7) Completion location.—

(A) General rule.—The term "completion location" means any subsurface location from which natural gas is being or has been produced in commercial quantities.

(B) Marker well.—The term "completion location", when used with reference to any marker well, means any subsurface location from which natural gas was produced from such well in commercial quantities after January 1, 1970, and before April 20, 1977.

(8) PRORATION UNIT.—The term "proration unit" means—

(A) any portion of a reservoir, as designated by the State or Federal agency having regulatory jurisdiction with respect to production from such reservoir, which will be effectively and efficiently drained by a single well;

(B) any drilling unit, production unit, or comparable arrangement, designated or recognized by the State or Federal agency having jurisdiction with respect to production from the reservoir, to describe that portion of such reservoir which will be effectively and efficiently drained by a single well; or

(C) if such portion of a reservoir, unit, or comparable arrangement is not specifically provided for by State law or by any action of any State or Federal agency having regulatory jurisdiction with respect to production from such reservoir, any voluntary unit agreement or other comparable arrangement applied, under local custom or practice within the locale in which such reservoir is situated, for the purpose of describing the portion of a reservoir which may be effectively and efficiently drained by a single well.

(9) NEW LEASE.—The term "new lease", when used with respect to the Outer Continental Shelf, means a lease, entered into on or after April 20, 1977, of submerged acreage.

(10) OLD LEASE.—The term "old lease", when used with respect to the Outer Continental Shelf, means any lease other than a new lease.

(11) NEW CONTRACT.—The term "new contract" means any contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas which was not previously subject to an existing contract.

(12) ROLLOVER CONTRACT.—The term "rollover contract" means any contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after such date of enactment) specified by the provisions of such existing contract, as such contract was in effect on the date of the enactment of this Act, whether or not there is an identity of parties or terms with those of such existing contract.

(13) EXISTING CONTRACT.—The term "existing contract" means any contract for the first sale of natural gas in effect on the day before the date of the enactment of this Act.

(14) SUCCESSOR TO AN EXISTING CONTRACT.—The term "successor to an existing contract" means any contract, other than a rollover contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract.

(15) INTERSTATE PIPELINE.—The term "interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act. 15 USC 717w.

(16) INTRASTATE PIPELINE.—The term "intrastate pipeline" means any person engaged in natural gas transportation (not including gathering) which is not subject to the jurisdiction of the Commission under the Natural Gas Act (other than any such pipeline which is not subject to the jurisdiction of the Commission solely by reason of section 1(c) of the Natural Gas Act). 15 USC 717.

(17) Local distribution company.—The term "local distribution company" means any person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption.

(18) Committed or dedicated to interstate commerce.—

(A) General rule.—The term "committed or dedicated to interstate commerce", when used with respect to natural gas, means—

(i) natural gas which is from the Outer Continental Shelf; and

(ii) natural gas which, if sold, would be required to be sold in interstate commerce (within the meaning of the Natural Gas Act) under the terms of any contract, any certificate under the Natural Gas Act, or any provision of such Act.

15 USC 717w.

(B) Exclusion.—Such term does not apply with respect to—

(i) natural gas sold in interstate commerce (within the meaning of the Natural Gas Act)—

(I) under section 6 of the Emergency Natural Gas Act of 1977;

15 USC 717 note.

(II) under any limited term certificate, granted pursuant to section 7 of the Natural Gas Act, which contains a pregrant of abandonment of service for such natural gas;

15 USC 717f.

(III) under any emergency regulation under the second proviso of section 7(c) of the Natural Gas Act; or

(IV) to the user by the producer and transported under any certificate, granted pursuant to section 7(c) of the Natural Gas Act, if such certificate was specifically granted for the transportation of that natural gas for such user;

(ii) natural gas for which abandonment of service was granted before the date of enactment of this Act under section 7 of the Natural Gas Act; and

(iii) natural gas which, but for this clause, would be committed or dedicated to interstate commerce under subparagraph (A)(ii) by reason of the action of any person (including any successor in interest thereof, other than by means of any reversion of a leasehold interest), if on May 31, 1978—

(I) neither that person, nor any affiliate thereof, had any right to explore for, develop, produce, or sell such natural gas; and

(II) such natural gas was not being sold in interstate commerce (within the meaning of the Natural Gas Act) for resale (other than any sale described in clause (i) (I), (II), or (III)).

15 USC 717w.

(19) Certificated natural gas.—The term "certificated natural gas" means natural gas transported by any interstate pipeline in a facility for which there is in effect a certificate issued under section 7(c) of the Natural Gas Act. Such term does not include natural gas sold to the user by the producer and transported pursuant to a certificate which is specifically issued under

15 USC 717f.

section 7(c) of the Natural Gas Act for the transportation of that natural gas, for such user unless such natural gas is used for the generation of electricity. 15 USC 717f.

(20) Sale.—The term "sale" means any sale, exchange, or other transfer for value.

(21) First sale.—

(A) General rule.—The term "first sale" means any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;

(ii) to any local distribution company;

(iii) to any person for use by such person;

(iv) which precedes any sale described in clauses (i), (ii), or (iii); and

(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

(B) Certain sales not included.—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

(22) Deliver.—The term "deliver" when used with respect to any first sale of natural gas, means the physical delivery from the seller; except that in the case of the sale of proven reserves in place to any interstate pipeline, any intrastate pipeline, any local distribution company, or any user of such natural gas, such term means the transfer of title to such reserves.

(23) Certificate.—The term "certificate", when used with respect to the Natural Gas Act, means a certificate of public convenience and necessity issued under such Act.

(24) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(25) Federal agency.—The term "Federal agency" has the same meaning as given such term in section 105 of title 5, United States Code.

(26) Person.—The term "person" includes the United States, any State, and any political subdivision, agency, or instrumentality of the foregoing.

(27) Affiliate.—The term "affiliate", when used in relation to any person, means another person which controls, is controlled by, or is under common control with, such person.

(28) Electric utility.—The term "electric utility" means any person to the extent such person is engaged in the business of the generation of electricity and sale, directly or indirectly, of electricity to the public.

(29) Mcf.—The term "Mcf", when used with respect to natural gas, means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(30) Btu.—The term "Btu" means British thermal unit.

(31) Month. The term "month" means a calendar month.

(32) Mile.—The term "mile" means a statute mile of 5,280 feet.

(33) United states.—The term "United States" means the several States and includes the Outer Continental Shelf.

(34) State.—The term "State" means each of the several States and the District of Columbia.

(35) Outer continental shelf.—The term "Outer Continental Shelf" has the same meaning as such term has under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

(36) Prudhoe bay unit of alaska.—The term "Prudhoe Bay Unit of Alaska" means the geographic area subject to the voluntary unit agreement approved by the Commissioner of the Department of Natural Resources of the State of Alaska on June 2, 1977, and referred to as the "affected area" in Conservation Order No. 145 of the Alaska Oil and Gas Conservation Committee, Division of Oil and Gas Conservation, Department of Natural Resources of the State of Alaska, as such order was in effect on June 1, 1977, and determined without regard to any adjustments in the description of the affected area permitted to be made under such order.

(37) Antitrust laws.—The term "Federal antitrust laws" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 13, 14–19, 20, 21, 22–27), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8–9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

TITLE I—WELLHEAD PRICING

Subtitle A—Wellhead Price Controls

SEC. 101. INFLATION ADJUSTMENT; OTHER GENERAL PRICE CEILING RULES.

15 USC 3311.

(a) Annual Inflation Adjustment Factor.—

(1) General rule.—For purposes of this title, the annual inflation adjustment factor applicable for any month shall be the sum of—

(A) a factor equal to one hundredth of the quarterly percent change in the GNP implicit price deflator; plus

(B) a correction factor of 1.002.

(2) Quarterly percent change in the GNP implicit price deflator.—For purposes of paragraph (1)—

(A) In general.—The term "quarterly percent change in the GNP implicit price deflator", when used with respect to any month, means the quarterly percent change in the GNP implicit price deflator, computed and published as an annual rate by the Department of Commerce, for the most recent calendar quarter for which such quarterly percent change has been so published at least 8 days before the beginning of such month.

(B) Months before enactment.—For purposes of applying such term with respect to any month in any calendar quarter which ends before the date of the enactment of this Act and for which a quarterly percent change in the GNP implicit price deflator has been published by the Department of Commerce as of such date of enactment, the quarterly percent change in the GNP implicit price deflator for the calendar quarter in which such month occurs shall be used in lieu of the quarterly percent change in the GNP implicit price deflator for a preceding calendar quarter.

(3) GNP IMPLICIT PRICE DEFLATOR.—For purposes of paragraph (2)—

(A) IN GENERAL.—The term "GNP implicit price deflator" means, except as provided in subparagraph (B), the preliminary estimate of the implicit price deflator, seasonally adjusted, for the gross national product, as computed and published by the Department of Commerce for the calendar quarter involved.

(B) MOST RECENT DATA AVAILABLE ON ENACTMENT.—The most recent revision, if any, of such implicit price deflator which has been so published before the date of the enactment of this Act, shall be used in lieu of the preliminary estimate of such implicit price deflator.

(b) RULES OF GENERAL APPLICATION.—

(1) DEPTH.—Except where otherwise provided, the depth of the completion location of any well shall be the true vertical depth, measured from the surface location of the well.

(2) COMMERCIAL QUANTITIES.—In determining whether production of natural gas has occurred in commercial quantities, quantities of natural gas produced from a well and used for the testing of such well or for other field uses which are production related shall not be taken into account.

(3) COMPUTATION OF MONTHLY EQUIVALENT.—For purposes of computing any price under this title, the monthly equivalent of any factor shall be the twelfth root of such factor.

(4) APPLICATION OF CEILING PRICES.—The maximum lawful ceiling prices under this title—

(A) shall only apply to natural gas produced in the United States;

(B) shall apply to the month of delivery without regard to the date of the sale or the date of the contract under which the sale occurs; and

(C) shall not apply to deliveries occurring before the first day of the first month beginning after the date of the enactment of this Act.

(5) SALES QUALIFYING UNDER MORE THAN ONE PROVISION.—If any natural gas qualifies under more than one provision of this title providing for any maximum lawful price or for any exemption from such a price with respect to any first sale of such natural gas, the provision which could result in the highest price shall be applicable.

(6) COMPUTATION AND PUBLICATION OF CEILING PRICES.—The Commission shall—

(A) not later than 5 days before the beginning of any month, compute and make available the maximum lawful prices prescribed under this title for such month and the monthly equivalent of the annual inflation adjustment factor for such month, and

(B) as soon as possible thereafter, publish such maximum lawful prices and such factor for such month in the Federal Register.

Publication in Federal Register.

(7) ROUNDING.—Any maximum lawful price under this title shall be computed to the nearest mill (rounding any fraction

thereof which is one-half a mill or higher to the next highest mill).

(8) Computation of initial ceiling prices.—In computing any maximum lawful price under the provisions of this title for the first month for which such provisions take effect, if the initial maximum lawful price is established by reference to any month before such month, such maximum lawful price shall be computed as if such provisions had been in effect during each such prior month.

(9) Effect on contract price.—In the case of—

(A) any price which is established under any contract for the first sale of natural gas and which does not exceed the applicable maximum lawful price under this title, or

(B) any price which is established under any contract for the first sale of natural gas which is exempted under subtitle B of this title from the application of a maximum lawful price under this title,

such maximum lawful price, or such exemption from such a maximum lawful price, shall not supersede or nullify the effectiveness of the price established under such contract.

SEC. 102. CEILING PRICE FOR NEW NATURAL GAS AND CERTAIN NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF.

15 USC 3312.

(a) Application.—The maximum lawful price computed under subsection (b) shall apply to any first sale of natural gas delivered during any month in the case of—

(1) new natural gas; and

(2) natural gas produced from any old lease on the Outer Continental Shelf and qualifying under subsection (d) for the new natural gas ceiling price.

(b) Maximum Lawful Price.—The maximum lawful price under this section for any month shall be—

(1) $1.75 per million Btu's, in the case of April 1977; and

(2) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subsection for the preceding month multiplied by the monthly equivalent of a factor equal to the sum of—

(A) the annual inflation adjustment factor applicable for such month; plus

(B)(i) .035, in the case of any month beginning before April 20, 1981; or

(ii) .04, in the case of any month beginning after April 20, 1981.

(c) Definition of New Natural Gas.—

(1) General rule.—For the purposes of this section, the term "new natural gas" means each of the following categories of natural gas:

Post, p. 3397.

(A) New OCS leases.—Natural gas determined in accordance with section 503 to be produced from a new lease on the Outer Continental Shelf.

(B) New onshore wells.—Natural gas determined in accordance with section 503 to be produced (other than from the Outer Continental Shelf) from—

(i) any new well which is 2.5 miles or more (determined in accordance with paragraph (2)) from the nearest marker well; or

(ii) any completion location, of any new well, which is located at a depth at least 1,000 feet below the deepest completion location of each marker well within 2.5 miles (determined in accordance with paragraph (2)) of such new well.

(C) NEW ONSHORE RESERVOIRS.—

(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), natural gas determined in accordance with section 503 to be produced (other than from the Outer Continental Shelf) from a reservoir from which natural gas was not produced in commercial quantities before April 20, 1977. *Post*, p. 3397.

(ii) BEHIND-THE-PIPE EXCLUSION.—Clause (i) shall not not apply to natural gas produced from any reservoir if—

(I) the reservoir was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities (whether or not such production was from such reservoir); and

(II) natural gas could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977.

(iii) WITHHELD GAS EXCLUSION.—Clause (i) shall not apply to natural gas produced from any reservoir—

(I) if such natural gas is produced through an old well; and

(II) subject to clause (iv), suitable facilities for the production and delivery to a pipeline of such natural gas were in existence on April 20, 1977.

(iv) EMERGENCY SALE FACILITIES.—The criteria of clause (iii)(II) shall not be considered to be met by reason of the existence of production and delivery facilities which were installed to carry out sales and deliveries of natural gas—

(I) under section 6 of the Emergency Natural Gas Act of 1977; or 15 USC 717 note.

(II) under the emergency sale authority pursuant to Opinion 699-B issued by the Federal Power Commission under section 7(c) of the Natural Gas Act. 15 USC 717f.

(2) DETERMINATIONS OF DISTANCE.—For purposes of determining the distance from any new well to any marker well—

(A) SURFACE LOCATION TO SURFACE LOCATION.—The measurement shall be the horizontal distance from the surface location of the new well to the surface location of the marker well—

(i) in any case in which the new well meets requirements for the nondirectional drilling of wells prescribed by the appropriate State or Federal agency having regulatory jurisdiction over the drilling of such well; or

(ii) in any case in which—

(I) the surface drilling of such new well began on or after February 19, 1977;

(II) production of natural gas in commercial quantities began from such well before the date of the enactment of this Act; and

(III) the drilling of such well was not subject to any requirement regarding directional or nondirectional drilling, or the drilling of such well was subject to requirements regarding directional drilling but such requirements did not necessitate the obtaining of any permit or other certificate before drilling began.

(B) COMPLETION LOCATION TO SURFACE LOCATION.—In the case of any new well which is not covered by subparagraph (A), the measurements shall be the horizontal distance from—

(i) the closest point of any completion location of the new well, vertically projected to the same elevation as the surface location of the nearest marker well; to

(ii) the surface location of such marker well.

(3) DETERMINATION OF COMMERCIAL QUANTITIES.—For purposes of determining whether production of natural gas has occurred in commercial quantities under paragraph (1)(C)—

(A) a rebuttable presumption exists that production from a reservoir in commercial quantities has not occurred if natural gas has not been sold and delivered from such reservoir before April 20, 1977; and

15 USC 717w.

(B) quantities of natural gas sold in interstate commerce (within the meaning of the Natural Gas Act) shall not be taken into account if such quantities were sold before the date of the enactment of this Act—

15 USC 717 note.

(i) under section 6 of the Emergency Natural Gas Act of 1977; or

15 USC 717f.

(ii) under the emergency sale authority pursuant to Opinion 699-B issued by the Federal Power Commission under section 7(c) of the Natural Gas Act.

(4) NEW WELLS WHICH ARE ALSO MARKER WELLS.—For purposes of applying paragraph (c)(1)(B)(ii) in the case of any marker well which is also a new well under section 2(3)(B), the reference in such paragraph (c)(1)(B)(ii) to the deepest completion location of any marker well shall be deemed to be a reference to any subsurface location from which natural gas was produced in commercial quantities after January 1, 1970, and before February 19, 1977.

(d) OCS GAS QUALIFYING FOR NEW NATURAL GAS CEILING PRICE.—For purposes of this section—

Post, p. 3397.

(1) OCS RESERVOIRS DISCOVERED ON OR AFTER JULY 27, 1976.—Natural gas determined in accordance with section 503 to be produced from an old lease on the Outer Continental Shelf shall qualify for the new natural gas ceiling price if such natural gas is produced from a reservoir which was not discovered before July 27, 1976.

(2) RESERVOIRS PENETRATED BEFORE JULY 27, 1976.—For purposes of paragraph (1), a reservoir shall be considered as having been discovered before July 27, 1976, if—

(A) such reservoir was penetrated by a well before July 27, 1976; and

(B) with respect to such well—

(i) the results of any production test meeting the requirements of OCS Order No. 4 demonstrate that, as of the time of such test, the reservoir is capable of producing in paying quantities (within the meaning of such Order);

(ii) any production capability evidence meeting the requirements of OCS Order No. 4 demonstrates that, as of the time such evidence is obtained, the reservoir is capable of producing in paying quantities (within the meaning of such Order); or

(iii) subject to paragraph (3), an induction-electric log, sidewall cores and core analysis, or a wire line formation test indicates that, as of the time of such test, the reservoir is commercially producible.

(3) Effect of negative production capability tests.—For purposes of paragraph (1), a reservoir shall not be considered as having been discovered before July 27, 1976, by the penetration of such reservoir by a well before July 27, 1976, if, with respect to such well—

(A) a production test meeting the requirements of OCS Order No. 4 was performed and the results of such test fail to demonstrate that, as of the time of such test, such reservior was capable of producing in paying quantities (within the meaning of such Order); and

(B) production capability evidence meeting the requirements of OCS Order No. 4 does not exist or, if existing, does not demonstrate that, as of the date such evidence was obtained, such reservoir was capable of producing in paying quantities (within the meaning of such Order).

(4) Burden of proof.—For purposes of paragraph (1), the producer shall have the burden of showing that—

(A) no test described in paragraph (2)(B)(i) or (iii) was performed and no evidence described in paragraph (2)(B)(ii) or (iii) exists; or

(B) if any such test was performed or such evidence exists, the results of such test or such evidence do not provide the applicable demonstration or indication specified under paragraph (2).

(5) Definition of OCS order no. 4.—For purposes of this subsection, the term "OCS Order No. 4" means the order numbered 4 of the Conservation Division, Geological Survey, Department of the Interior, as approved by the Chief of the Conservation Division on August 28, 1969.

(e) Exclusion of Certain Alaska Natural Gas.—The preceding provisions of this section shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976. 15 USC 719 note.

SEC. 103. CEILING PRICE FOR NEW, ONSHORE PRODUCTION WELLS.

(a) Application.—In the case of natural gas determined in accordance with section 503 to be produced from any new, onshore production well, the maximum lawful price computed under subsection (b) shall apply to any first sale of such natural gas delivered during any month. 15 USC 3313. *Post*, p. 3397.

(b) Maximum Lawful Price.—

(1) General rule.—The maximum lawful price under this section for any month shall be—

(A) $1.75 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(2) Production after 1984 from wells 5,000 feet or less in depth.—Effective beginning with the month of January 1985 and in any month thereafter, in the case of any first sale of natural gas which was not committed or dedicated to interstate commerce on April 20, 1977, and which is produced from a new, onshore production well from a completion location located at a depth of 5,000 feet or less, the maximum lawful price under this section for any such natural gas delivered during any month shall be a price which is midway between—

(A) the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas); and

(B) the maximum lawful price, per million Btu's, computed for such month under paragraph (1).

(c) Definition of New, Onshore Production Well.—For purposes of this section, the term "new, onshore production well" means any new well (other than a well located on the Outer Continental Shelf)—

(1) the surface drilling of which began on or after February 19, 1977;

(2) which satisfies applicable Federal or State well-spacing requirements, if any; and

(3) which is not within a proration unit—

(A) which was in existence at the time the surface drilling of such well began;

(B) which was applicable to the reservoir from which such natural gas is produced; and

(C) which applied to a well (i) which produced natural gas in commercial quantities or (ii) the surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

(d) Exclusion of Certain Alaska Natural Gas.—The preceding provisions of this section shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

SEC. 104. CEILING PRICE FOR SALES OF NATURAL GAS DEDICATED TO INTERSTATE COMMERCE.

15 USC 3314.

15 USC 717w.

(a) Application.—In the case of natural gas committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and for which a just and reasonable rate under the Natural Gas Act was in effect on such date for the first sale of such natural gas, the maximum lawful price computed under subsection (b) shall apply to any first sale of such natural gas delivered during any month.

(b) Maximum Lawful Price.—

(1) General rule.—The maximum lawful price under this section for any month shall be the higher of—

(A)(i) the just and reasonable rate, per million Btu's, established by the Commission which was (or would have been) applicable to the first sale of such natural gas on April 20, 1977, in the case of April 1977; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month, or

(B) any just and reasonable rate which was established by the Commission after April 27, 1977, and before the date of the enactment of this Act and which is applicable to such natural gas.

(2) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(A) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(B) just and reasonable within the meaning of the Natural Gas Act.

SEC. 105. CEILING PRICE FOR SALES UNDER EXISTING INTRASTATE CONTRACTS.

15 USC 717w.

(a) APPLICATION.—The maximum lawful price computed under subsection (b) shall apply to any first sale of natural gas delivered during any month in the case of natural gas, sold under any existing contract or any successor to an existing contract, which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act. 15 USC 3315.

(b) MAXIMUM LAWFUL PRICE.—

(1) GENERAL RULE.— Subject to paragraphs (2) and (3), the maximum lawful price under this section shall be the lower of—

(A) the price under the terms of the existing contract, to which such natural gas was subject on the date of the enactment of this Act, as such contract was in effect on such date; or

(B) the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(2) CONTRACT PRICE EXCEEDING NEW GAS CEILING PRICE ON ENACTMENT.—In the case of any natural gas described in subsection (a) for which the contract price applicable on the date of the enactment of this Act exceeds the maximum lawful price, per million Btu's, computed for such date under section 102 (relating to new natural gas), the maximum lawful price under this section shall be the higher of—

(A) the maximum lawful price, per million Btu's, computed for such month under section 102; or

(B)(i) the contact price on the date of the enactment of this Act, in the case of the month in which this Act is enacted; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(3) PRICE INCREASES RESULTING FROM INDEFINITE PRICE ESCALATOR CLAUSES.—

(A) In general.—Effective January 1985, and each month thereafter, in the case of any first sale of natural gas, which is sold at a price established under any indefinite price escalator clause of any existing contract or successor to an existing contract and for which the contract price on December 31, 1984, is higher than $1.00 per million Btu's, the maximum lawful price under this section for any such natural gas delivered during any month shall be the higher of—

(i) the maximum lawful price, per million Btu's, computed under paragraph (2)(B); or

(ii)(I) in the case of January 1985, the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for such month; and

(II) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this clause for the immediately preceding month multiplied by the monthly equivalent of the sum of a factor equal to the annual inflation adjustment factor applicable for such month plus .03.

(B) Definition of indefinite price escalator clause.—For purposes of this paragraph, the term "indefinite price escalator clause" includes any provision of any contract—

(i) which provides for the establishment or adjustment of the price for natural gas delivered under such contract by reference to other prices for natural gas, for crude oil, or for refined petroleum products; or

(ii) which allows for the establishment or adjustment of the price of natural gas delivered under such contract by negotiation between the parties.

(C) Contract modifications after May 3, 1978, to be disregarded.—In the case of any natural gas which was subject to any contract on May 3, 1978, that contained an indefinite price escalator clause on such date, no amendment to or modification of the operation of such contract made after such date may have the effect of limiting or precluding the application of this paragraph on or after January 1, 1985, to prices allowed with respect to such natural gas.

(D) Exclusion.—Subparagraph (A) shall not apply to any first sale of new natural gas (as defined in section 102(c)), stripper well natural gas (as defined in section 108(b)), high-cost natural gas (as defined in section 107(c)), natural gas produced from a new, onshore production well (as defined in section 103(c)) from a completion location located at a depth of more than 5,000 feet, and, beginning July 1, 1987, or, if later, the date of expiration of any price controls reimposed under section 122, natural gas produced from any new, onshore production well (as defined in section 103(c)) from a completion location located at a depth of 5,000 feet or less.

(c) Definition of Contract Price.—For purposes of this section, the term "contract price", when used with respect to any specific date, means—

(1) the price paid, per million Btu's, under a contract for deliveries of natural gas occurring on such date; or

(2) if no deliveries of natural gas occurred under such contract on such date, the price, per million Btu's, that would have been paid had such deliveries occurred on such date.

SEC. 106. CEILING PRICE FOR SALES UNDER ROLLOVER CONTRACTS.

(a) INTERSTATE ROLLOVER CONTRACTS.—In the case of any first sale under any rollover contract of natural gas which was committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, the maximum lawful price under this subsection for such natural gas delivered during any month shall be the higher of— 15 USC 3316.

(1)(A) in the case of the month in which the effective date of such rollover contract occurs, the just and reasonable rate, if any, per million Btu's, established by the Commission and applicable on such date to the natural gas subject to the expired contract; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month; or

(2)(A) $0.54 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

For purposes of this subsection, the term "rollover contract" includes any contract which would have been a rollover contract but for the fact that the expiration of the previous contract occurred prior to the day before the date of the enactment of this Act. "Rollover contract".

(b) INTRASTATE ROLLOVER CONTRACTS.—

(1) GENERAL RULE.—In the case of any first sale under any rollover contract of natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, the maximum lawful price under this subsection for such natural gas delivered during any month shall be the higher of—

(A)(i) the maximum price paid under the expired contract, per million Btu's, in the case of the month in which the effective date of such rollover contract occurs; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month; or

(B)(i) $1.00 per million Btu's, in the case of April 1977; and

(ii) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subparagraph for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor applicable for such month.

(2) CERTAIN STATE OR INDIAN PRODUCTION OR ROYALTY SHARES.—

(A) GENERAL RULE.—In the case of any first sale under any rollover contract of natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which constitutes a State government's or Indian tribe's natural gas production, or royalty share or other interest (as of such day) in natural gas production, from real property (including subsurface mineral interests) owned on the date of the enactment of this Act by such State government or Indian tribe (as the case may be), the maximum lawful price under this subsection for any such natural gas delivered during any month shall be the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(B) INDIAN TRIBAL LANDS.—For purposes of this paragraph, land shall be considered to be owned by an Indian tribe only if—

(i) such land is owned directly by such tribe; or

(ii) such land is held by the United States or any State in trust for Indian persons and is located within the boundaries of an Indian reservation (as such boundaries were in effect on the date of the enactment of this Act).

(C) DEFINITIONS.—For purposes of this paragraph—

(i) STATE GOVERNMENT.—The term "State government" means any State or any agency, instrumentality, or political subdivision of a State.

(ii) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe recognized as eligible for services provided by the Secretary of the Interior to Indians.

(c) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(1) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(2) just and reasonable within the meaning of the Natural Gas Act. 15 USC 717w.

SEC. 107. CEILING PRICE FOR HIGH-COST NATURAL GAS.

15 USC 3317. (a) WELLS COMPLETED BELOW 15,000 FEET.—In the case of any first sale of high-cost natural gas produced from any well the surface drilling of which began on or after February 19, 1977, if such production is from any completion location which is located at a depth of more than 15,000 feet, the maximum lawful price under this section for such natural gas delivered during any month shall be the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas).

(b) COMMISSION AUTHORITY TO PRESCRIBE HIGHER INCENTIVE PRICES.—The Commission may, by rule or order, prescribe a maximum lawful price, applicable to any first sale of any high-cost natural gas, which exceeds the otherwise applicable maximum lawful price to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas.

(c) DEFINITION OF HIGH-COST NATURAL GAS.—For purposes of this section, the term "high-cost natural gas" means natural gas determined in accordance with section 503 to be— *Post*, p. 3397.

(1) produced from any well the surface drilling of which began on or after February 19, 1977, if such production is from a completion location which is located at a depth of more than 15,000 feet;

(2) produced from geopressured brine;

(3) occluded natural gas produced from coal seams;

(4) produced from Devonian shale; and

(5) produced under such other conditions as the Commission determines to present extraordinary risks or costs.

(d) Provisions for High-Cost Natural Gas To Be Elective.—If any credit, exemption, deduction, or comparable adjustment applicable to the computation of any Federal tax is specifically allowable with respect to any high-cost natural gas (or category thereof) under any provision of law enacted after the date of the enactment of this Act, the provisions of subsections (a) and (b) of this section and the provisions of subtitle B shall not apply to such natural gas produced from any well unless an election to have such provisions apply (in lieu of such credit, exemption, deduction, or adjustment) with respect to such natural gas produced from such well is filed with the Commission on or before the later of—

(A) the 30th day after the date of the enactment of the Act under which such credit, exemption, deduction, or adjustment is provided; or

(B) the date the surface drilling of such well began.

SEC. 108. CEILING PRICE FOR STRIPPER WELL NATURAL GAS.

(a) General Rule.—In the case of any first sale of stripper well natural gas the maximum lawful price under this section for such natural gas delivered during any month shall be— 15 USC 3318.

(1) $2.09 per million Btu's, in the case of May 1978; and

(2) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this subsection for the preceding month multiplied by the monthly equivalent of a factor equal to the sum of—

(A) the annual inflation adjustment factor applicable for such month; plus

(B)(i) .035, in the case of any month beginning before April 20, 1981; or

(ii) .04, in the case of any month beginning after April 20, 1981.

(b) Definition of Stripper Well Natural Gas.—

(1) General rule.—Except as provided in paragraph (2), the term "stripper well natural gas" means natural gas determined in accordance with section 503 to be nonassociated natural gas produced during any month from a well if— *Post*, p. 3397.

(A) during the preceding 90-day production period, such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day during such period; and

(B) during such period such well produced at its maximum efficient rate of flow, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas.

(2) Production in excess of 60 mcf.—The Commission shall, by rule, provide that, if nonassociated natural gas produced from a well which previously qualified as a stripper well under paragraph (1) exceeds an average of 60 Mcf per production day during any 90-day production period, such natural gas may continue to qualify as stripper well natural gas if the increase in nonassociated natural gas produced from such well was the result of the application of recognized enhanced recovery techniques.

(3) Definitions.—For purposes of this subsection—

(A) Production day.—The term "production day" means—

(i) any day during which natural gas is produced; and

(ii) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency having regulatory jurisdiction over the production of natural gas.

(B) 90-DAY PRODUCTION PERIOD.—The term "90-day production period" means any period of 90 consecutive calendar days excluding any day during which natural gas is not produced for reasons other than voluntary action of any person with the right to control production of natural gas from such well.

(C) NONASSOCIATED NATURAL GAS.—The term "nonassociated natural gas" means natural gas which is not produced in association with crude oil.

SEC. 109. CEILING PRICE FOR OTHER CATEGORIES OF NATURAL GAS.

15 USC 3319.

(a) APPLICATION.—The maximum lawful price computed under subsection (b) shall apply to any first sale of any natural gas delivered during any month, in the case of any natural gas which is not covered by any maximum lawful price under any other section of this subtitle, including—

(1) natural gas produced from any new well not otherwise qualifying for a higher maximum lawful price under this title;

(2) natural gas committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and for which a just and reasonable rate under the Natural Gas Act was not in effect on such date for the first sale of such natural gas; 15 USC 717w.

(3) natural gas which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which was not subject to an existing contract on such day; and

(4) natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976. 15 USC 719 note.

(b) MAXIMUM LAWFUL PRICE.—

(1) The maximum lawful price under this section for any month shall be—

(A) $1.45 per million Btu's, in the case of April 1977; and

(B) in the case of any month thereafter, the maximum lawful price, per million Btu's, prescribed under this paragraph for the preceding month multiplied by the monthly equivalent of the annual inflation adustment factor applicable for such month.

(2) CEILING PRICES MAY BE INCREASED IF JUST AND REASONABLE.—The Commission may, by rule or order, prescribe a maximum lawful ceiling price, applicable to any first sale of any natural gas (or category thereof, as determined by the Commission) otherwise subject to the preceding provisions of this section, if such price is—

(A) higher than the maximum lawful price which would otherwise be applicable under such provisions; and

(B) just and reasonable within the meaning of the Natural Gas Act. 15 USC 717w.

SEC. 110. TREATMENT OF STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.

15 USC 3320.

(a) ALLOWANCE FOR STATE SEVERANCE TAXES AND CERTAIN PRODUCTION-RELATED COSTS.—Except as provided in subsection (b), a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover—

(1) State severance taxes attributable to the production of such natural gas and borne by the seller, but only to the extent the amount of such taxes does not exceed the limitation of subsection (b); and

(2) any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

(b) LIMITATION ON STATE SEVERANCE TAXES.—The State severance tax allowable under subsection (a)(1) with respect to the production of any natural gas may not include any amount of State severance taxes borne by the seller which results from a provision of State law enacted on or after December 1, 1977, unless such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(c) DEFINITION OF STATE SEVERANCE TAX.—For purposes of this section, the term "State severance tax" means any severance, production, or similar tax, fee, or other levy imposed on the production of natural gas—

(1) by any State or Indian tribe (as defined in section 106(b)(2)(B)(ii)); and

(2) by any political subdivision of a State if the authority to impose such tax, fee, or other levy is granted to such political subdivision under State law.

Subtitle B—Decontrol of Certain Natural Gas Prices

SEC. 121. ELIMINATION OF PRICE CONTROLS FOR CERTAIN NATURAL GAS SALES.

15 USC 3331.

(a) GENERAL RULE.—Subject to the reimposition of price controls as provided in section 122, the provisions of subtitle A respecting the maximum lawful price for the first sale of each of the following categories of natural gas shall, except as provided in subsections (d) and (e), cease to apply effective January 1, 1985:

(1) NEW NATURAL GAS.—New natural gas (as defined in section 102(c)).

(2) NEW, ONSHORE PRODUCTION WELLS.—Natural gas produced from any new, onshore production well (as defined in section 103(c)), if such natural gas—

(A) was not committed or dedicated to interstate commerce on April 20, 1977; and

(B) is produced from a completion location which is located at a depth of more than 5,000 feet.

(3) INTRASTATE CONTRACTS IN EXCESS OF $1.00.—Natural gas sold under an existing contract, any successor to an existing contract, or any rollover contract, if—

(A) such natural gas was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act; and

(B) the price paid for the last deliveries of such natural gas occurring on December 31, 1984, or, if no deliveries occurred on such date, the price would have been paid had deliveries occurred on such date is higher than $1.00 per million Btu's.

(b) High-Cost Natural Gas.—Effective beginning on the effective date of the incremental pricing rule required under section 201, the provisions of subtitle A respecting the maximum lawful price for the first sale of natural gas shall cease to apply to the first sale of high-cost natural gas which is described in section 107(c) (1), (2), (3), or (4).

(c) Natural Gas Produced From 5,000 or Less.—Effective beginning July 1, 1987, or, if later, the date of expiration of any price controls reimposed under section 122, the provisions of subtitle A respecting the maximum lawful price for any first sale of natural gas shall, except as provided in subsection (d), cease to apply to any first sale of natural gas produced from any new, onshore production well (as defined in section 103(c)), if such natural gas—

(1) was not committed or dedicated to interstate commerce on April 20, 1977; and

(2) is produced from a completion location which is located at a depth of 5,000 feet or less.

(d) Exclusion of Certain Alaska Natural Gas.—The provisions of subsections (a) and (c) shall not apply to any natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

15 USC 719 note.

(e) Limitation on Indefinite Price Escalators.—Natural gas which is not subject to maximum lawful prices under subtitle A solely by reason of subsection (a)(3) and which is sold under any existing contract or successor to an existing contract at a price established under an indefinite price escalator clause (as defined in section 105(b)(3)(B)) shall be subject to the provisions of section 105(b)(3).

SEC. 122. STANDBY PRICE CONTROL AUTHORITY.

15 USC 3332.

(a) Reimposition of Price Controls.—The President, in accordance with subsection (c)(1), or the Congress, in accordance with subsection (c)(2), may reimpose maximum lawful prices for first sales of natural gas to which section 121(a) applies and delivery of which occurs after the effective date of the reimposition of such maximum lawful prices.

(b) Limitations.—A reimposition of maximum lawful prices under this section—

(1) may not take effect earlier than July 1, 1985, nor later than June 30, 1987; and

(2) shall remain in effect for a period of 18 months.

(c) Procedure for Reimposing Price Controls.—For purposes of this section—

(1) Presidential reimposition.—Any exercise of authority by the President under subsection (a) shall be by written order issued after May 31, 1985, and, subject to subsection (b), shall take effect for the first month beginning after the first 30 calendar days of continuous session of Congress (as determined in accordance with section 507(b)) after a copy of such order has been submitted to each House of the Congress unless during such 30 calendar days of continuous session of Congress, the Congress adopts a concurrent resolution of disapproval described in section 507(c)(1).

Post, p. 3406.

(2) Congressional reimposition.—Any exercise of authority by the Congress under subsection (a) shall be by the adoption of a concurrent resolution after May 31, 1985, described in section 507(c)(2) and, subject to subsection (b), shall take effect for the first month beginning after the date of the adoption of such resolution. *Post,* p. 3406.

(d) Maximum Lawful Prices Applicable Under Reimposition of Price Control.—If maximum lawful prices are reimposed under this section on first sales of natural gas to which section 121(a) applies, the maximum lawful price under this section for any first sale of such natural gas delivered during any month shall be—

(1) except as provided in paragraph (2), the maximum lawful price, per million Btu's, computed for such month under section 102 (relating to new natural gas); and

(2) the maximum lawful price, per million Btu's, computed for such month under section 103(b)(2) (relating to new, onshore production wells 5,000 feet or less in depth), in the case of natural gas produced from any new, onshore production well (as defined in section 103(c)) if such natural gas—

(A) was not committed or dedicated to interstate commerce on April 20, 1977; and

(B) is produced from a completion location which is located at a depth of 5,000 feet or more.

(e) Allowance for State Severance Taxes and Certain Production-Related Costs.—A price may exceed the maximum lawful price applicable for such natural gas under this section to the same extent as is provided under section 110 with respect to maximum lawful prices under subtitle A.

(f) Limitation.—Maximum lawful prices may be reimposed only once under this section.

SEC. 123. REPORT TO THE CONGRESS.

(a) Reports.—On or before July 1, 1984, and on or before January 1, 1985, the Department of Energy shall prepare and transmit to the President and to each House of the Congress a report on natural gas prices, supplies, and demand, and the competitive conditions and market forces in the natural gas industry in the United States. Each such report shall include an evaluation by the Department of Energy whether equilibrium exists between supply and demand for natural gas. 15 USC 3333.

(b) Public Comment.—In preparing each report required under subsection (a), the Department of Energy shall provide an opportunity for public comment with respect to matters required under subsection (a) to be included in such report.

TITLE II—INCREMENTAL PRICING

SEC. 201. INDUSTRIAL BOILER FUEL USE.

(a) In General.—Not later than 12 months after the date of the enactment of this Act, the Commission shall prescribe and make effective (and may from time to time amend) a rule designed to provide for the passthrough, in accordance with the provisions of this title, of the costs of natural gas which are— 15 USC 3341.

(1) described in section 203; and

(2) incurred by any interstate pipeline.

(b) Initial Application.—The requirements of the rule under this section shall apply with respect to the boiler fuel use of natural gas by any industrial boiler fuel facility.

(c) Definitions.—For purposes of this section—

(1) Industrial boiler fuel facility.—The term "industrial boiler fuel facility" means any industrial facility, as defined by the Commission, which uses natural gas as a boiler fuel and which is not exempt under section 206.

(2) Boiler fuel use.—The term "boiler fuel use" means the use of any fuel for the generation of steam or electricity.

SEC. 202. AMENDMENT EXPANDING APPLICATION FOR OTHER INDUSTRIAL USES.

15 USC 3342.

(a) In General.—

(1) Commission rule.—Not later than 18 months after the date of the enactment of this Act, the Commission shall, by rule, prescribe an amendment to the rule required under section 201 designed to provide for the passthrough, in accordance with the provisions of this title, of the costs of natural gas which are—

(A) described in section 203; and

(B) incurred by any interstate pipeline.

(2) Effectiveness.—The amendment required by this section, and any amendment to the rule under section 201 which is applicable to facilities to which the amendment required by this section applies (other than a technical or clerical amendment), shall take effect only as provided under subsection (c).

(b) Expanded Application.—The requirements of the rule under section 201, as amended under subsection (a), shall apply with respect to the industrial use of natural gas (as defined by the Commission in such rule), including boiler fuel use of natural gas (as defined in section 201(C)(2)) by—

(1) any industrial boiler fuel facility (as defined in section 201 (c)(1)); and

(2) any industrial facility which is within a category defined by the Commission in such amendment as subject thereunder to the requirements of such rule which is not exempt under section 206.

(c) Congressional Review.—

(1) In general.—Any amendment, the effectiveness of which is subject to this subsection, shall take effect beginning with the first month which begins more than 30 days after the first 30 calendar days of continuous session of Congress (determined in accordance with section 507(b) after a copy of such amendment has been submitted to each House of the Congress or on such later date, not more than 90 days thereafter, as may be provided in such amendment unless, during such 30 day period of continuous session of Congress, either House of the Congress adopts a resolution of disapproval described in section 507(c)(3) with respect to such amendment.

Post, p. 3406.

(2) Authority in the event of congressional disapproval.—

(A) Authority to resubmit.—If either House of the Congress adopts a resolution of disapproval with respect to the amendment required under subsection (a) (or any amendment proposed and submitted under this subparagraph), the Commission may thereafter submit to each House of the Congress an amendment, satisfying the requirements of subsections (a) and (b), which amendment shall take effect as provided under paragraph (1).

(B) LIMITATION.—The authority of subparagraph (A) may not be exercised—

(i) earlier than 6 months after the date of the adoption of the most recent resolution of disapproval with respect to any such amendment under this section; and

(ii) later than 2 years after the date of the adoption of any resolution of disapproval described in section 507(c)(3) with respect to the amendment required under subsection (a). *Post*, p. 3406.

SEC. 203. ACQUISITION COSTS SUBJECT TO PASSTHROUGH.

(a) IN GENERAL.—The following costs shall be subject to the passthrough requirements of the rule prescribed under section 201 (including any amendment under section 202): 15 USC 3343.

(1) NEW NATURAL GAS.—In the case of new natural gas (as defined in section 102(c)), any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs.

(2) NATURAL GAS UNDER INTRASTATE ROLLOVER CONTRACT.—In the case of natural gas, delivered under a rollover contract, which was not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act, any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which such delivery occurs.

(3) NEW, ONSHORE PRODUCTION WELL GAS.—In the case of natural gas produced from any new, onshore production well (as defined in section 103(c)), any portion of the first sale acquisition cost of such natural gas which exceeds the incremental pricing threshold applicable for the month in which the delivery of such natural gas occurs.

(4) LNG IMPORTS.—Subject to section 207, in the case of liquefied natural gas imported into the United States, any portion of the first sale acquisition cost of such natural gas (whether or not liquefied when acquired) which exceeds the incremental pricing threshold applicable for the month in which such liquefied natural gas enters the United States.

(5) NATURAL GAS (OTHER THAN LNG) IMPORTS.—Subject to section 207, in the case of natural gas (other than liquefied natural gas) imported into the United States, any portion of the first sale acquisition cost of such imported natural gas which exceeds the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for the month in which such natural gas enters the United States, without regard to section 110.

(6) STRIPPER WELL NATURAL GAS.—In the case of stripper well natural gas (as defined in section 108(b)), any portion of the first sale acquisition cost of such natural gas which exceeds the maximum lawful price, per million Btu's, computed under section 102 (relating to new natural gas) for the month in which the delivery of such natural gas occurs, without regard to section 110.

(7) HIGH-COST NATURAL GAS.—In the case of high-cost natural gas (as defined in section 107(c)), any portion of the first sale acquisition cost of such natural gas which exceeds 130 percent of the amount the Commission determines represents—

(A) the weighted average per barrel cost of Number 2 fuel oil landed in the greater New York City metropolitan area, during an appropriate period preceding the month during which delivery of such natural gas occurs; divided by

(B) a Btu conversion factor of 5.8 mililon Btu's per barrel.

(8) Alaska natural gas transportation system.—In the case of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976—

15 USC 719 note.

(A) any portion of the first sale acquisition cost of such natural gas which is not described in subparagraph (B) and which exceeds the maximum lawful price, per million Btu's, computed under section 109 (relating to other categories of natural gas) for the month in which delivery of such natural gas occurs, without regard to section 110; and

(B) any amount paid to any person (other than the producer of such natural gas or an affiliate of such producer) for, or attributable to, any compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or any similar service provided with respect to such natural gas, before the delivery of such natural gas to such system.

(9) Increased state severance taxes.—

(A) Increases included.—Any portion of the cost of natural gas at any first sale attributable to any increase in the amount of State severance taxes (as defined in section 110(c)) which results from a provision of State law enacted on or after December 1, 1977.

(B) Certain changes allowed in method of computing tax.—Subparagraph (A) shall not apply to any increase in State severance taxes resulting from a change in the method of computation of such tax by reason of any provision of State law enacted on or after December 1, 1977, if—

(i) as of the effective date of such change in method of computation, such increase does not result in an increase in the level of such tax, expressed as a percentage of the weighted average first sale price of natural gas produced in such State, above the percentage of such average first sale price which such tax constituted on the day before such effective date; and

(ii) such provision of law is equally applicable to natural gas produced in such State and delivered in interstate commerce and to natural gas produced in such State and not so delivered.

(C) Determination of average price.—The price to be used in determining the weighted average first sale price for purposes of clause (i) shall be the price paid at the first sale which is used by such State in administering such tax (or an imputed value, if the State uses an event other than a first sale in administering such tax).

(10) Purchases under section 311.—In the case of any sale of natural gas authorized under section 311, any portion of any amount paid, per million Btu's, in the acquisition of such natural gas in any such sale which exceeds the incremental pricing threshold applicable for the month in which such acquisition occurs.

(11) Surcharges paid to other pipelines.—The amount of any surcharge (described in section 204(c)(3)) paid by any interstate pipeline for natural gas acquired by such pipeline from another interstate pipeline.

(b) First Sale Acquisition Costs.—

(1) General rule.—For purposes of this section, the first sale acquisition cost of natural gas is—

(A) the price paid, per million Btu's, in any first sale of such natural gas, in the case of any natural gas produced in the United States and acquired in such first sale; and

(B) the price paid for such natural gas, per million Btu's, at the point of entry to the United States, in the case of natural gas or liquefied natural gas imported into the United States.

Any amount of State severance taxes paid at any first sale shall not be included under subparagraph (A) or (B).

(2) Interstate pipeline production.—For purposes of this section, in the case of any natural gas produced by any interstate pipeline or any affiliate of such pipeline, the first sale acquisition cost of such natural gas shall be determined in accordance with rules prescribed by the Commission.

(c) Incremental Pricing Threshold.—For purposes of this section, the incremental pricing threshold applicable for any month shall be—

(1) $1.48 per million Btu's, in the case of March 1978; and

(2) in the case of any month thereafter, the amount, per million Btu's, determined under this subsection for the preceding month multiplied by the monthly equivalent of the annual inflation adjustment factor (as defined in section 101(a)) applicable for such month.

(d) Classification To Be Based on Provisions Under Which Sale Price Is Determined.—In the case of natural gas which is described in more than one paragraph of paragraphs (1) through (8) of subsection (a), the Commission shall, by rule, prescribe the method for determining under which such paragraph the first sale acquisition costs of such natural gas shall be subject to the passthrough requirements of this title, based upon the classification of such natural gas under which the price of such national gas is determined under title I.

SEC. 204. METHOD OF PASSTHROUGH.

(a) Establishment of Incremental Pricing Account.—The rule required under section 201 (including any amendment under section 202 to such rule) shall provide that any interstate pipeline subject to such rule shall establish and maintain an incremental pricing account (hereinafter in this title referred to as the "account"). 15 USC 3344.

(b) Credits to Account.—The rule required under section 201 (including any amendment under section 202 to such rule) shall provide that any costs subject to the passthrough requirements of this title under section 203 (and any carrying charges permitted by the Commission) shall be credited to the account of such pipeline. Amounts so credited may not be allocated to the rates and charges of such pipeline except to the extent provided under this section.

(c) Requirement for Direct Passthrough.—

(1) In general.—The rule required under section 201 (including any amendment under section 202 to such rule) shall be designed to provide that any amounts in any interstate pipeline's account will be passed through, in accordance with a method prescribed under paragraph (2), by means of a surcharge determined in accordance with a method prescribed under paragraph (3).

(2) SURCHARGE PASSTHROUGH.—The rule required under section 201 (including any amendment under section 202) shall provide—

(A) that any surcharge calculated under paragraph (3) may not be imposed by any interstate pipeline except in accordance with a method prescribed under subparagraph (B); and

(B) one or more methods for imposing such surcharge on the rates and charges of such pipeline applicable to any volume of natural gas delivered, during the calendar period involved, for industrial use to any incrementally priced industrial facilities served directly by such interstate pipeline and to incrementally priced industrial facilities served indirectly through any other interstate pipeline or any local distribution company.

(3) SURCHARGE.—

(A) CALCULATION OF SURCHARGE.—Subject to subparagraphs (B) and (C), the amount of any surcharge imposed by any interstate pipeline under this subsection on deliveries of natural gas during the calendar period involved shall be based on the dollar amount in such pipeline's account at the beginning of such period and on the volume of natural gas delivered directly or indirectly by such pipeline during such period or a preceding calendar period to incrementally priced industrial facilities for industrial use with such adjustments as the Commission determines necessary to carry out the purposes of this title.

(B) ELIMINATION OR REDUCTION OF SURCHARGE APPLICABLE TO A FACILITY.—The rule under section 201 (including any amendment under section 202 to such rule) shall provide one or more methods which have the effect of eliminating or reducing the amount of the surcharge determined under subparagraph (A) to be passed through under paragraph (2) with respect to volumes of natural gas to be delivered directly or indirectly to any incrementally priced industrial facility for industrial use to the extent that such surcharge, in the absence of such elimination or reduction, would cause the rates and charges, per million Btu's, paid for such volumes of natural gas by that incrementally priced industrial facility to exceed the appropriate alternative fuel cost.

(C) INCREASE IN GENERAL SURCHARGE TO REFLECT AN ADJUSTMENT UNDER SUBPARAGRAPH (B).—The rule under section 201 (including any amendment under section 202 to such rule) shall provide one or more methods by which, in any case in which the surcharge is eliminated or reduced under subparagraph (5) with respect to certain deliveries of natural gas, the interstate pipeline involved may recover from incrementally priced industrial facilities which are not subject to any surcharge elimination or reduction under subparagraph (B) the dollar amount which would have been so passed through if the elimination or reduction under subparagraph (B) had not occurred.

(D) EXCEPTION.—The methods prescribed under subparagraphs (B) and (C) need not require—

(i) elimination or reduction under subparagraph (B) of the surcharge with respect to any specific deliveries of natural gas; or

(ii) the increase under subparagraph (C) of the surcharge generally applicable due to any adjustment under subparagraph (B),

if the Commission determines that to do so would be impracticable or unnecessary to carry out the purposes of this title.

(4) Local distribution company direct purchases.—In any case in which a local distribution company directly incurs any first sale acquisition cost subject to the passthrough requirements of this title under section 203 or otherwise directly incurs any other cost subject to such requirements under sections 203(a)(8)(B), (9), or (10), such local distribution company shall, with respect to the natural gas involved, be treated for purposes of this title as if it were an interstate pipeline.

(5) Pipelines and local distribution companies with more than one source of natural gas.—The rule under section 201 (including any amendment under section 202 to such rule) shall prescribe one or more methods for determining, for purposes of paragraph (2)(B) and paragraph (3)(A), the volume of natural gas delivered indirectly by any interstate pipeline to any incrementally priced industrial facility through any other interstate pipeline or local distribution company for purposes of applying subsection (d)(2).

(d) Deductions From Account.—

(1) In general.—Amounts passed through by any interstate pipeline by means of any surcharge under this section shall be deducted from such pipeline's account.

(2) Normal allocation to occur where btu equivalency is reached for all facilities served by a pipeline.—In any case in which the rates and charges to incrementally priced industrial facilities for natural gas delivered, directly or indirectly, by any interstate pipeline for industrial use to incrementally priced industrial facilities subject to the rule required under section 201 (including any amendment under section 202 to such rule), are not less than the appropriate alternative fuel cost, such rule shall prescribe one or more methods by which amounts in excess of that reasonably necessary to maintain such rates and charges applicable to such industrial facilities at the appropriate alternative fuel cost may be deducted from such pipeline's account and may be allocated to the rates and charges of such interstate pipeline in any manner which would be permitted in the absence of this title.

(e) Determination of Alternative Fuel Cost.—

(1) In general.—Except as provided in paragraph (2), the appropriate alternative fuel cost for any region (as designated by the Commission) shall be the price, per million Btu's, for Number 2 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel.

(2) Reduction of appropriate alternative fuel cost allowed.—The Commission may, by rule or order, reduce the appropriate alternative fuel cost—

(A) for any category of incrementally priced industrial facilities, subject to the rule required under section 201 (including any amendment under section 202 to such rule) located within any region and served by the same interstate pipeline; or

(B) for any specific incrementally priced industrial facility which is subject to such requirements and which is located in any region;

to an amount not lower than the price, per million Btu's, for Number 6 fuel oil determined by the Commission to be paid in such region by industrial users of such fuel, if and to the extent the Commission determines, after an opportunity for written and oral presentation of views, data, and arguments, that such reduction is necessary to prevent increases in the rates and charges to residential, small commercial, and other high-priority users of natural gas which would result from a reallocation of costs caused by the conversion of such industrial facility or facilities from natural gas to other fuels, which conversion is likely to occur if the level of the appropriate alternative fuel cost were not so reduced.

(f) DETERMINATION OF APPROPRIATE ACCOUNTING PERIOD.—The rule required to be prescribed in section 201 shall specify the appropriate calendar periods used for purposes of such rule (including any amendment under section 202 to such rule).

(g) INCREMENTALLY PRICED INDUSTRIAL FACILITY DEFINED.—For purposes of this section, the term "incrementally priced industrial facility" means any industrial facility subject to the requirements of the rule under section 201 (including any amendment under section 202 to such rule).

(h) INDUSTRIAL USE DEFINED.—For purposes of this section, the term "industrial use", when used with respect to natural gas, means the boiler fuel use of natural gas (as defined in section 201(c)(2)) and any other use defined, by rule, by the Commission as an industrial use.

SEC. 205. LOCAL DISTRIBUTION COMPANY PASSTHROUGH REQUIREMENTS.

15 USC 3345.

(a) GENERAL RULE.—Any surcharge under this title, paid by any local distribution company with respect to natural gas which is indirectly delivered by any interstate pipeline to incrementally priced industrial facilities which are served by such local distribution company, shall be directly passed through to such industrial facilities.

(b) PROHIBITION ON OFFSETTING MODIFICATIONS IN RATES AND CHARGES.—Any modification of the method of allocating costs to the rates and charges of such local distribution company in effect on the date of the enactment of this Act is prohibited if a court, in any action brought under section 504(b)(3), determines that such modification has the effect of creating any offset, in the rates and charges for natural gas applicable to any incrementally priced industrial facility served by such company, for the amount of any surcharge under this title paid by such local distribution company with respect to natural gas delivered by any interstate pipeline indirectly to that incrementally priced industrial facility.

Post, p. 3401.

(c) SPECIAL ENFORCEMENT AUTHORITY OF ATTORNEY GENERAL.—In addition to such enforcement authority as may be available to the Commission or any person, the Attorney General may enforce the requirements of this subsection in accordance with the provisions of section 504(b)(3).

(d) PREEMPTION OF STATE OR LOCAL LAW.—The requirements of this title shall preempt and supersede any provision of State or local law to the extent such provision of law would preclude the passthrough of any surcharge under this title or prevent the application of the requirements of this section.

(e) STATE COMMISSION DEFINED.—For the purposes of this subsection, the term "State commission" means the State, political subdivision, or an agency of either, having jurisdiction with respect to the rates and charges of any local distribution company.

SEC. 206. EXEMPTIONS.

(a) Small Existing Industrial Boiler Fuel Users.—

(1) Interim exemption.—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule required under section 201 shall not apply with respect to any boiler fuel use of natural gas by any industrial boiler fuel facility in existence on the date of the enactment of this Act if such use of natural gas by such facility does not exceed an average of 300 Mcf per day during any month of a base period determined appropriate by the Commission. 15 USC 3346.

(2) Permanent exemption.—

(A) General rule.—Not later than 18 months after the date of the enactment of this Act, the Commission shall prescribe and make effective a rule providing for the exemption of any small industrial boiler fuel facility from the rule required under section 201 (including any amendment under section 202 to such rule).

(B) Definition.—For purposes of this paragraph, the term "small industrial boiler fuel facility" means any industrial boiler fuel facility in existence on the date of the enactment of this Act that had an average per day use of natural gas as a boiler fuel during the month of peak use during calendar year 1977 which did not exceed the lesser of—

(i) 300 Mcf; or

(ii) such average daily rate of use during a month of peak use as the Commission determines in such rule is necessary to assure that the volume of natural gas estimated by the Commission to have been used for boiler fuel during calendar year 1977 by facilities which are exempted under this paragraph does not exceed 5 percent of the total volume of natural gas estimated by the Commission to have been used for boiler fuel transported by interstate pipelines and used during calendar year 1977 as a boiler fuel.

(b) Agricultural Users of Natural Gas.—

(1) Interim exemption.—During the period preceding the effective date of any permanent exemption under paragraph (2), the rule prescribed under section 201 shall not apply to any facility to the extent of any agricultural use of natural gas.

(2) Exemption by rule.—Not later than 18 months after the date of the enactment of this Act, the Commission shall prescribe and make effective a rule providing for the exemption from the rule required under section 201 (including any amendment under section 202 to such rule) any facility with respect to any agricultural use of natural gas for which the Commission determines that an alternative fuel or feedstock is not—

(A) economically practicable; or

(B) reasonably available.

(3) Agricultural use defined.—For purposes of this subsection, the term "agricultural use", when used with respect to natural gas, means the use of natural gas to the extent such use is—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

(c) Schools, Hospitals, and Certain Other Facilities.—The rule under section 201 (including any amendment to such rule under section 202) shall not apply to—

(1) any school, hospital, or other similar institution;

(2) the generation of electricity by any electric utility; or

(3) to the extent provided by the Commission by rule, any qualifying cogenerator (as defined in section 3(18)(B) of the Federal Power Act, as amended by the Public Utility Regulatory Policies Act of 1978).

16 USC 796. *Ante*, p. 3134.

(d) Other Exemptions.—

(1) In general.—The Commission may, by rule or order, provide for the exemption, in whole or in part, of any other incrementally priced industrial facility or category thereof from the rule prescribed under section 201 (including any amendment under section 202 to such rule).

(2) Congressional review.—Any rule which provides for any exemption under this subsection may take effect after the expiration of the first 30 calendar days of continuous session of Congress (determined in accordance with section 507(b)) after a copy of such rule has been submitted to each House of the Congress, unless, during such 30 day period of continuous session of Congress, either House of the Congress adopts a resolution of disapproval described in section 507(c)(3), with respect to such rule.

Post, p. 3406.

SEC. 207. TREATMENT OF CERTAIN IMPORTS.

15 USC 3347.

(a) Certain LNG Imports.—Except to the extent of a determination otherwise under subsection (c)(1), the provisions of section 203(a)(4) shall not apply to the passthrough of the first sale acquisition costs of liquefied natural gas (or natural gas vaporized from liquefied natural gas) imported into the United States if—

(1) the importation of such liquefied natural gas has been authorized under section 3 of the Natural Gas Act on or before May 1, 1978;

15 USC 717b.

(2) an application for such authority was pending under such section on such date; or

(3) in connection with the granting of any authority under the Natural Gas Act to import such liquefied natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the Department of Energy Organization Act (or any delegation or assignment thereunder), determines that a contract binding on the importer or other substantial financial commitment of the importer has been made on or before such date.

15 USC 717w.

42 USC 7101 note.

(b) Certain Natural Gas Imports (Other Than LNG).—Subject to subsection (c)(2), the provisions of section 203(a)(5) shall only apply to the passthrough of the first sale acquisition costs of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceeds both—

(1) the maximum delivery obligations, for the month in which such delivery of such natural gas occurs, which is specified in contracts entered into on or before May 1, 1978, and in effect when such delivery occurs; and

(2) the volume of natural gas imported into the United States by the interstate pipeline involved during any corresponding period (determined appropriate by the Commission) of calendar year 1977.

(c) Authority With Respect to Incremental Pricing of Natural Gas or LNG Imports.—

(1) LNG imports.—Subsection (a) (2) and (3) shall not apply with respect to any liquefied natural gas imports if, in connection with the granting of any authority under the Natural Gas Act to import such liquefied natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the assignment of functions under the Department of Energy Organization Act, determines that the provisions of section 203(a)(4) shall apply with respect to such liquefied natural gas imports.

15 USC 717w.

42 USC 7101 note.

(2) Natural gas imports (other than LNG).—The provisions of section 203(a)(5) shall apply to the passthrough of the first sale acquisition costs of volumes of natural gas (other than liquefied natural gas) imported into the United States which exceed the volume of natural gas imported into the United States by the interstate pipeline involved during any corresponding period (determined appropriate by the Commission) of calendar year 1977 if, in connection with the granting of any authority under the Natural Gas Act to import such natural gas, the Secretary of the Department of Energy or the Commission, in accordance with the assignment of functions under the Department of Energy Organization Act, determines that the provisions of section 203(a)(5) shall apply with respect to such natural gas imports.

15 USC 717w.

42 USC 7101 note.

SEC. 208. ALASKA NATURAL GAS.

In the case of natural gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaska Natural Gas Transportation Act of 1976—

15 USC 3348.

15 USC 719 note.

(1) any portion of the first sale acquisition cost of such natural gas incurred by any interstate pipeline which is not required to be incrementally priced under this title, and

(2) any amount incurred by any interstate pipeline, for transportation of such natural gas after delivery of such natural gas to such system,

shall be allocated to the rates and charges of such interstate pipeline in accordance with the general principles applicable on the date of the enactment of this Act for establishing rates in connection with the issuing of certificates under the Natural Gas Act for interstate pipelines.

15 USC 717w.

TITLE III—ADDITIONAL AUTHORITIES AND REQUIREMENTS

Subtitle A—Emergency Authority

SEC. 301. DECLARATION OF EMERGENCY.

(a) Presidential Declaration.—The President may declare a natural gas supply emergency (or extend a previously declared emergency) if he finds that—

15 USC 3361.

(1) a severe natural gas shortage, endangering the supply of natural gas for high-priority uses, exists or is imminent in the United States or in any region thereof; and

(2) the exercise of authorities under section 302 or section 303 is reasonably necessary, having exhausted other alternatives to the maximum extent practicable, to assist in meeting natural gas requirements for such high-priority uses.

(b) Limitation.—

(1) Expiration.—Any declaration of a natural gas supply emergency (or extension thereof) under subsection (a), shall terminate at the earlier of—

(A) the date on which the President finds that any shortage described in subsection (a) does not exist or is not imminent; or

(B) 120 days after the date of such declaration of emergency (or extension thereof).

(2) Extensions.—Nothing in this subsection shall prohibit the President from extending, under subsection (a), any emergency (or extension thereof), previously declared under subsection (a), upon the expiration of such declaration of emergency (or extension thereof) under paragraph (1)(B).

SEC. 302. EMERGENCY PURCHASE AUTHORITY.

15 USC 3362.

(a) Presidential Authorization.—During any natural gas supply emergency declared under section 301, the President may, by rule or order, authorize any interstate pipeline or local distribution company served by any interstate pipeline to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for the purchase of emergency supplies of natural gas—

(1) from any producer of natural gas (other than a producer who is affiliated with the purchaser, as determined by the President) if—

(A) such natural gas is not produced from the Outer Continental Shelf; and

15 USC 717w.

(B) the sale or transportation of such natural gas was not pursuant to a certificate issued under the Natural Gas Act immediately before the date on which such contract was entered into; or

(2) from any intrastate pipeline, local distribution company, or other person (other than an interstate pipeline or a producer of natural gas).

(b) Contract Duration.—The duration of any contract authorized under subsection (a) may not exceed 4 months. The preceding sentence shall not prohibit the President from authorizing under subsection (a) a renewal of any contract, previously authorized under such subsection, following the expiration of such contract.

(c) Related Transportation and Facilities.—The President may, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natural gas, as he determines necessary to carry out any contract authorized under subsection (a). The costs of any construction or transportation ordered under this subsection shall be paid by the purchaser of natural gas under the contract with respect to which such order is issued. No order to transport natural gas under this subsection shall require any pipeline to transport natural gas in excess of such pipeline's available capacity.

(d) Maintenance of Adequate Records.—The Commission shall require any interstate pipeline or local distribution company contracting under the authority of this section for natural gas to maintain and make available full and adequate records concerning transactions under this section, including records of the volumes of natural gas purchased under the authority of this section and the rates and charges for purchase and receipt of such natural gas.

(e) Special Limitation.—No sale under any emergency purchase contract under this section for emergency supplies of natural gas for sale and delivery from any intrastate pipeline which is operating under court supervision as of January 1, 1977, may take effect unless the court approves.

SEC. 303. EMERGENCY ALLOCATION AUTHORITY.

(a) In General.—In order to assist in meeting natural gas requirements for high-priority uses of natural gas during any natural gas supply emergency declared under section 301, the President may, by order, allocate supplies of natural gas under subsections (b), (c), and (d) to— 15 USC 3363.

(1) any interstate pipeline;

(2) any local distribution company—

(A) which is served by any interstate pipeline;

(B) which is providing natural gas only for high-priority uses; and

(C) which is in need of deliveries of natural gas to assist in meeting natural gas requirements for high-priority uses of natural gas; and

(3) any person for meeting requirements of high-priority uses of natural gas.

(b) Allocation of Certain Boiler Fuel Gas.—

(1) Required finding.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, emergency purchase authority under section 302 has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) emergency purchases of natural gas supplies under section 302 are not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses; and

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to to the maximum extent practicable to terminate such deliveries.

(2) Allocation authority.—Subject to paragraph (1), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of natural gas the use of which has been prohibited by the President pursuant to authority under section 607 of the Public Utility Regulatory Policies Act of 1978 (relating to the use of natural gas as a boiler fuel during any natural gas supply emergency). *Ante*, p. 3171.

(c) Allocation of General Pipeline Supply.—

(1) Required findings.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, allocation of supplies of natural gas under subsection (b) has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) the exercise of such authority is not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses;

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to the maximum extent practicable to terminate such deliveries;

(E) such allocation will not create, for the interstate pipeline delivering certificated natural gas, a supply shortage which will cause such pipeline to be unable to meet the natural gas requirements for high-priority uses of natural gas served, directly or indirectly, by such pipeline; and

(F) such allocation will not result in a disproportionate share of deliveries and resulting curtailments of natural gas being experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders issued under this subsection applicable to other interstate pipelines (as determined by the President).

(2) Required notification from state.—

(A) Notification.—The President shall not allocate supplies of natural gas under this subsection unless he is notified by the Governor of any State that—

(i) a shortage of natural gas supplies available to such State exists or is imminent;

(ii) such shortage or imminent shortage endangers the supply of natural gas for high-priority uses in such State; and

(iii) the exercise of authority under State law is inadequate to protect high-priority uses of natural gas in such State from an interruption in natural gas supplies.

(3) Basis of finding.—To the maximum extent practicable, the Governor shall submit, together with any notification under subparagraph (A), information upon which he has based his finding under such subparagraph, including—

(i) volumes of natural gas required to meet the natural gas requirements for high-priority uses of natural gas in such State;

(ii) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas supplies available to such State;

(iii) information on the authority under State law which will be exercised to protect high-priority uses; and

(iv) such other information which the President requests or which the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed by such State.

(4) Allocation authority.—Subject to paragraphs (1), (2), and (5), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of certificated natural gas from any interstate pipeline.

(5) Consideration of alternative fuel availability.—In issuing any order under this subsection the President shall consider

the relative availability of alternative fuel to natural gas users supplied by the interstate pipeline ordered to make deliveries pursuant to this subsection.

(d) Allocation of User-Owned Gas.—

(1) Required finding.—The President shall not allocate supplies of natural gas under this subsection unless he finds that—

(A) to the maximum extent practicable, allocation of supplies of natural gas under subsection (c) has been utilized to assist in meeting natural gas requirements for high-priority uses of natural gas;

(B) the exercise of such authority is not likely to satisfy the natural gas requirements for such high-priority uses;

(C) the exercise of authority under this subsection is reasonably necessary to assist in meeting natural gas requirements for such high-priority uses;

(D) any interstate pipeline or local distribution company receiving such natural gas has ordered the termination of all deliveries of natural gas for other than high-priority uses and attempted to the maximum extent practicable to terminate such deliveries; and

(E) such allocation will not create, for the person who owns and would otherwise use such natural gas, a supply shortage which will cause such person to be unable to satisfy such person's natural gas requirements for high-priority uses.

(2) Allocation authority.—Subject to paragraphs (1) and (3), in order to assist in meeting natural gas requirements for high-priority uses of natural gas, the President may, by order, allocate supplies of natural gas which would be certificated natural gas but for the second sentence of section 2(19).

(3) Consideration of economic feasibility of alternative fuels.—In issuing any order under this subsection, the President shall consider the economic feasibility of alternative fuels available to the user which owned the natural gas subject to an order under this subsection.

(e) Limitation.—No order may be issued under this section unless the President determines that such order will not require transportation of natural gas by any pipeline in excess of its available transportation capacity.

(f) Industry Assistance.—The President may request that representatives of pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

(g) Compensation.—

(1) In general.—If the parties to any order issued under subsection (b), (c), (d), or (h) fail to agree upon the terms of compensation for natural gas deliveries or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting natural gas.

(2) Calculation of compensation for certain boiler fuel natural gas.—For purposes of any supplemental order under paragraph (1) with respect to emergency deliveries pursuant to subsection (b), the President shall calculate the amount of compensation—

(A) for supplies of natural gas based upon the amount required to make whole the user subject to the prohibition order, but in no event may such compensation exceed just compensation prescribed in section 607 of the Public Utility Regulatory Policies Act of 1978; and

Ante, p. 3171.

(B) for transportation, storage, delivery, and other services, based upon reasonable costs, as determined by the President.

(3) Compensation for other natural gas allocated.—For the purpose of any supplemental order under paragraph (1), if the party making emergency deliveries pursuant to subsection (c) or (d)—

(A) indicates a preference for compensation in kind, the President shall direct that compensation in kind be provided as expeditiously as practicable;

(B) indicates a preference for compensation, or the President determines that, notwithstanding paragraph (A) of this subsection, any portion thereof cannot practicably be compensated in kind, the President shall calculate the amount of compensation—

(i) for supplies of natural gas, based upon the amount required to make the pipeline and its local distribution companies whole, in the case of any order under subsection (c), or to make the user from whom natural gas is allocated whole, in the case of any order under subsection (d), including any amount actually paid by such pipeline and its local distribution companies or such user for volumes of natural gas or higher cost synthetic gas acquired to replace natural gas subject to an order under subsection (c) or (d); and

(ii) for transportation, storage, delivery, and other services, based upon reasonable costs, as determined by the President. Compensation received by an interstate pipeline under this subsection shall be credited to the account of any local distribution company served by that pipeline to the extent ordered by the President to make such local distribution company whole.

(h) Related Transportation and Facilities.—The President may, by order, require any pipeline to transport natural gas, and to construct and operate such facilities for the transportation of natual gas, as he determines necessary to carry out any order under subsection (b), (c), or (d). Compensation for the costs of any construction or transportation ordered under this subsection shall be determined under subsection (g) and shall be paid by the person to whom supplies of natural gas are ordered allocated under this section.

(i) Monitoring.—In order to effect the purposes of this subtitle, the President shall monitor the operation of any order made pursuant to this section to assure that natural gas delivered pursuant to this section is applied to high-priority uses only.

Report to Congress.

(j) Commission Study.—Not later than June 1, 1979, the Commission shall prepare and submit to the Congress a report regarding whether authority, to allocate natural gas, which is not otherwise subject to allocation under this subtitle, is likely to be necessary to meet high-priority uses.

(k) Definition of High-Priority Use.—For purposes of this section, the term "high-priority use" means any—

(1) use of natural gas in a residence;

(2) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; or

(3) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

SEC. 304. MISCELLANEOUS PROVISIONS.

(a) INFORMATION.—

(1) OBTAINING OF INFORMATION.—In order to obtain information to carry out his authority under this subtitle, the President may—

15 USC 3364.

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(c) secure, upon request, any information from any Federal agency.

(2) ENFORCEMENT OF SUBPENAS AND ORDERS.—The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(b) REPORTING OF PRICES AND VOLUMES.—In issuing any order under section 302 or 303, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order shall be reported to him on a weekly basis. Such reports shall be made available to the Congress.

(c) PRESIDENTIAL REPORTS TO CONGRESS.—The President shall report to the Congress, not later than 90 days following the termination under section 301(b) of any declaration of a natural gas supply emergency (or extension thereof) under section 301(a), respecting the exercise of authority under section 301, 302, 303, or this section.

(d) DELEGATION OF AUTHORITIES.—The President may delegate all or any portion of the authority granted to him under section 301, 302, 303, or this section to such Federal officers or agencies as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any Federal officer or agency to which authority is delegated or redelegated under this subsection shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

(e) ANTITRUST PROTECTIONS.—

(1) DEFENSES.—There shall be available as a defense for any person to civil or criminal action brought for violation of the Federal antitrust laws (or any similar law of any State) with respect to any action taken, or meeting held, pursuant to any order of the President under section 303 (b), (c), (d), or (i), or any meeting held pursuant to a request of the President under section 303(g), if—

(A) such action was taken or meeting held solely for the purpose of complying with the President's request or order;

(B) such action was not taken for the purpose of injuring competition; and

(C) any such meeting complied with the requirements of paragraph (2).

Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(2) Requirements of meetings.—With respect to any meeting held pursuant to a request by the President under section 303(g) or pursuant to an order under section 303—

(A) there shall be present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

(B) a full and complete record of such meeting shall be taken and deposited, together with any agreements resulting therefrom, with the Attorney General, who shall make it available for public inspection and copying;

(C) the Attorney General and the Federal Trade Commission shall have the opportunity to participate from the beginning in the development and carrying out of agreements and actions under section 303, in order to propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of section 303 and any order thereunder; and

(D) such other procedures as may be specified by the President in such request or order shall be complied with.

(f) Effect on Certain Contractual Obligations.—There shall be available as a defense to any action brought for breach of contract under Federal or State Law arising out of any act or omission that such act was taken or that such omission occurred for purposes of complying with any order issued under section 303.

(g) Preemption.—Any order issued pursuant to this title shall preempt any provision of any program for the allocation, emergency delivery, transportation, or purchase of natural gas established by any State or local government if such program is in conflict with any such order.

Subtitle B—Other Authorities and Requirements

SEC. 311. AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION.

15 USC 3371.

(a) Commission Approval of Transportation.—

(1) Interstate pipelines.—

(A) In general.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

(i) any intrastate pipeline; and

(ii) any local distribution company.

(B) Just and reasonable rates.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

15 USC 717w.

(2) INTRASTATE PIPELINES.—

(A) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

(i) any interstate pipeline; and

(ii) any local distribution company served by any interstate pipeline.

(B) RATES AND CHARGES.—

(i) MAXIMUM FAIR AND EQUITABLE PRICE.—The rates and charges of any intrastate pipeline with respect to any transportation authorized under subparagraph (A), including any amount computed in accordance with the rule prescribed under clause (ii), shall be fair and equitable and may not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(ii) COMMISSION RULE.—The Commission shall, by rule, establish the method for calculating an amount necessary to—

(I) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, delivery, or similar service provided by such pipeline in connection with any transportation of natural gas authorized under subparagraph (A); and

(II) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(b) COMMISSION APPROVAL OF SALES.—

(1) IN GENERAL.—The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to—

(A) any interstate pipeline; and

(B) any local distribution company served by any interstate pipeline.

(2) RATES AND CHARGES.—

(A) MAXIMUM FAIR AND EQUITABLE PRICE.—The rates and charges of any intrastate pipeline with respect to any sale of natural gas authorized under paragraph (1) shall be fair and equitable and may not exceed the sum of—

(i) such intrastate pipeline's weighted average acquisition cost of natural gas;

(ii) an amount, computed in accordance with the rule prescribed under subparagraph (B); and

(iii) any adjustment permitted under subparagraph (C).

(B) COMMISSION RULE.—The Commission shall, by rule, establish the method for calculating an amount necessary to—

(i) reasonably compensate any intrastate pipeline for expenses incurred by the pipeline and associated with the providing of any gathering, treatment, processing, transportation, or delivery service provided by such pipeline in connection with any sale of natural gas authorized under paragraph (1); and

(ii) provide an opportunity for such pipeline to earn a reasonable profit on such services.

(C) Adjustment.—

(i) Application.—This subparagraph shall apply in any case in which, in order to deliver any volume of natural gas pursuant to any sale authorized under paragraph (1), any intrastate pipeline acquires quantities of natural gas under any existing contract, if—

(I) such intrastate pipeline acquires any volume of natural gas under such contract in excess of that which such pipeline would otherwise have acquired; and

(II) the price paid for such additional volume of natural gas acquired under such contract is greater than such pipeline's weighted average acquisition cost of natural gas, computed without regard to the acquisition of such additional volume of natural gas.

(ii) Commission adjustment.—In any case to which this subparagraph applies, the Commission shall permit an adjustment to the maximum fair and equitable price provided under subparagraph (A) to increase the revenue to the intrastate pipeline under such sale by an amount determined by the Commission to be adequate to offset the additional cost incurred by such pipeline due to any increase in such pipeline's weighted average acquisition cost of natural gas.

(3) Limitation.—

(A) Two-year duration.—No authorization of any sale (or any extension thereof) under paragraph (1) may be for a period exceeding two years.

(B) Extension.—Any authorization of any sale under paragraph (1), and any extension of any such authorization under this subparagraph, may be extended by the Commission if such extension satisfies the requirements of this subsection.

(4) Adequacy of service to intrastate customers.—Any sale authorized under paragraph (1) shall be subject to interruption to the extent that natural gas subject to such sale is required to enable the intrastate pipeline involved to provide adequate service to such pipeline's customers at the time of such sale.

(5) Procedural requirements.—

(A) Affidavit.—Any application for authorization of any sale under paragraph (1) shall be accompanied by an affidavit filed by the intrastate pipeline involved and setting forth—

(i) the identity of the interstate pipeline or local distribution company involved;

(ii) each point of delivery of the natural gas from the intrastate pipeline;

(iii) the estimated total and daily volumes of natural gas subject to such sale;

(iv) the price or prices of such volumes; and

(v) such other information as the Commission may, by rule, require.

(B) Verification of compliance.—Any application for authorization of any sale under paragraph (1) shall be accompanied by a statement by the intrastate pipeline involved verifying by oath or affirmation that such sale, if authorized, would comply with all requirements applicable to such sale under this subsection and all terms and conditions established, by rule or order, by the Commission and applicable to such sale.

(6) Termination of sales.—

(A) Hearing.—Upon complaint of any interested person, or upon the Commission's own motion, the Commission shall, after affording an opportunity for oral presentation of views and arguments, terminate any sale authorized under paragraph (1) if the Commission determines—

(i) such termination is required to enable the intrastate pipeline involved to provide adequate service to the customers of such pipeline at the time of such sale;

(ii) such sale involves the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);

(iii) such sale violates any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or

(iv) such sale circumvents or violates any provision of this Act.

(B) Suspension pending hearing.—Prior to any hearing or determination required under subparagraph (A), upon complaint of any interested person or upon the Commission's own motion, the Commission may suspend any sale authorized under paragraph (1) if the Commission finds that it is likely that the determinations described in subparagraph (A) will be made following the hearing required under subparagraph (A).

(C) Determination.—The determination of whether any interruption of any sale authorized under paragraph (1) is required under subparagraph (A)(i) shall be made by the Commission without regard to the character of the use of natural gas by any customer of the intrastate pipeline involved.

(D) State intervention.—Any interested State may intervene as a matter of right in any proceeding before the Commission relating to any determination under this section.

(7) Disapproval of application.—The Commission shall disapprove any application for authorization of any sale under paragraph (1) if the Commission determines—

(A) such sale would impair the ability of the intrastate pipeline involved to provide adequate service to its customers at the time of such sale (without regard to the character of the use of natural gas by such customer);

(B) such sale would involve the sale of natural gas acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under paragraph (1);

(C) such sale would violate any requirement of this subsection or any term or condition established, by rule or order, by the Commission and applicable to such sale; or

(D) such sale would circumvent or violate any provision of this Act.

(c) Terms and Conditions.—Any authorization granted under this section shall be under such terms and conditions as the Commission may prescribe.

SEC. 312. ASSIGNMENT OF CONTRACTUAL RIGHTS TO RECEIVE SURPLUS NATURAL GAS.

15 USC 3372.

(a) Authorization of Assignments.—The Commission may, by rule or order, authorize any intrastate pipeline to assign, without compensation, to any interstate pipeline or local distribution company all or any portion of such intrastate pipeline's right to receive surplus natural gas at any first sale, upon such terms and conditions as the Commission determines appropriate.

(b) Effect of Authorization Under Subsection (a).—For the effect of an authorization under subsection (a), see section 601 (relating to the coordination of this Act with the Natural Gas Act). 15 USC 717w.

(c) Surplus Natural Gas.—For purposes of this section, the term "surplus natural gas" means any natural gas—

(1) which is not committed or dedicated to interstate commerce on the day before the date of the enactment of this Act;

(2) the first sale of which is subject to a maximum lawful price established under title I of this Act; and *Ante*, p. 3356.

(3) which is determined, by the State agency having regulatory jurisdiction over the intrastate pipeline which would be entitled to receive such natural gas in the absence of any assignment to exceed the then current demands on such pipeline for natural gas.

SEC. 313. EFFECT OF CERTAIN NATURAL GAS PRICES ON INDEFINITE PRICE ESCALATOR CLAUSES.

15 USC 3373.
Ante, p. 3366.
Ante, p. 3363.

(a) High-Cost Natural Gas.—No price paid in any first sale of high-cost natural gas (as defined in section 107(c)) may be taken into account in applying any indefinite price escalator clause (as defined in section 105(b)(3)(B)) with respect to any first sale of any natural gas other than high-cost natural gas (as defined in section 107(c)).

(b) Other Transactions.—No price paid—

(1) in any sale authorized under section 302(a), or

(2) pursuant to any order issued under section 303 (b), (c), (d), or (g),

may be taken into account in applying any indefinite price escalator clause (as defined in section 105(b)(3)(B)).

SEC. 314. CLAUSES PROHIBITING CERTAIN SALES, TRANSPORTATION, AND COMMINGLING.

15 USC 3374.

(a) General Rule.—Any provision of any contract for the first sale of natural gas is hereby declared against public policy and unenforceable with respect to any natural gas covered by this Act if such provision—

(1) prohibits the commingling of natural gas subject to such contract with natural gas subject to the jurisdiction of the Commission under the provisions of the Natural Gas Act; 15 USC 717w.

(2) prohibits the sale of any natural gas subject to such contract to, or transportation of any such natural gas by, any person subject to the jurisdiction of the Commission under the Natural Gas Act, or otherwise prohibits the sale or transportation in interstate commerce (within the meaning of the Natural Gas Act) of natural gas subject to such contract; or

(3) terminates, or grants any party the option to terminate, any obligation under any such contract as a result of such commingling, sale, or transportation.

(b) Natural Gas Covered by This Act.—For purposes of subsection (a), the term "natural gas covered by this Act" means—

(1) natural gas which is not committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act;

(2) natural gas, the sale in interstate commerce of which—

(A) is authorized under section 302(a) or 311(b); or

(B) is pursuant to an assignment under section 312(a); and

(3) natural gas, the transportation in interstate commerce of which is—

(A) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h); or

(B) authorized by the Commission under section 311(a).

SEC. 315. CONTRACT DURATION; RIGHT OF FIRST REFUSAL; FILING OF CONTRACTS AND AGREEMENTS.

(a) CONTRACT DURATION.—

15 USC 3375.

(1) GENERAL RULE.—The Commission may, by rule or order, specify the minimum duration of any contract (other than any existing contract) for the purchase of natural gas to which section 601(a)(1) (A) or (B) is applicable. In no case may the minimum contract duration specified under this paragraph applicable to natural gas produced from any reservoir exceed 15 years or, if less, the commercially producible life of such reservoir. The provisions of this paragraph shall not apply to contracts of natural gas subject to the requirements of paragraph (3).

(2) NONDISCRIMINATORY APPLICATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may not exercise the authority provided under paragraph (1) in a manner which—

(i) provides an advantage to interstate pipelines by diverting supplies of natural gas to interstate pipelines and thereby denying adequate supplies of natural gas to intrastate pipelines; or

(ii) otherwise discriminates between purchases by interstate pipelines and intrastate pipelines of natural gas.

(B) SPECIAL CIRCUMSTANCES.—The Commission may vary any requirement established under paragraph (1) with respect to any contract by an interstate pipeline or intrastate pipeline to the extent necessary to respond to special circumstances.

(3) CONTRACTS FOR PURCHASE OF OCS NATURAL GAS.—The Commission shall prescribe a rule which shall require that any first sale contract (other than any existing contract) for the purchase of natural gas which is produced from any reservoir on the Outer Continental Shelf and which is new natural gas (as defined in section 102(b)) or high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4)) shall be for a duration of not less than 15 years or, if less, the commercially producible life of the reservoir.

Ante, p. 3358.
Ante, p. 3366.

(b) OFFERS; RIGHT OF FIRST REFUSAL.—

(1) APPLICATION.—This subsection shall apply with respect to any natural gas which is committed or dedicated to interstate commerce on the day before the date of the enactment of this Act and which is—

(A) high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4));

(B) new natural gas (as defined in section 102(c)); or

(C) natural gas produced from any new, onshore production well (as defined in section 103(c)).

Ante, p. 3361.

This subsection shall not apply to any natural gas committed or dedicated to interstate commerce solely by reason of section 2(18) (A)(i).

Ante, p. 3352.

(2) Offer of sale.—The Commission shall, by rule, require that if natural gas subject to the requirements of this subsection is produced on or after the first day of the first month beginning after the date of the enactment of this Act, a bona fide offer to sell such natural gas must be made to the person who, but for the provisions of section 601(a)(1)(B) (relating to deregulation), would have been entitled pursuant to the commitment or dedication of such natural gas to interstate commerce to receive such natural gas if such natural gas were sold (or any successor in interest to such person).

(3) Right of first refusal.—The Commission shall, by rule, require that following—

(A) the expiration or termination of any contract with respect to the first sale of natural gas subject to the requirements of this subsection to the person who, but for the provisions of section 601(a)(1)(B) (relating to deregulation), would have been entitled pursuant to the commitment or dedication of such natural gas to interstate commerce to receive such natural gas if such natural gas were sold (or any successor in interest to such person), or

(B) any rejection of any bona fide offer, described in paragraph (2), to sell natural gas subject to the requirements of this subsection,

such person who would have been entitled to receive such natural gas shall be granted a right of first refusal of the first offer to sell such natural gas which, subject to the exercise of any right of first refusal under this paragraph, has been substantially accepted in principle by another person in an arms-length transaction.

(c) Filing of Contracts and Ancillary Agreements.—The Commission may, by rule or order, require any first sale purchaser of natural gas under a new contract, a successor to an existing contract, or a rollover contract to file with the Commission a copy of such contract, together with all ancillary agreements and any existing contract applicable to such natural gas.

TITLE IV—NATURAL GAS CURTAILMENT POLICIES

SEC. 401. NATURAL GAS FOR ESSENTIAL AGRICULTURAL USES.

15 USC 3391.

(a) General Rule.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe and make effective a rule, which may be amended from time to time, which provides that, notwithstanding any other provision of law (other than subsection (b)) and to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless such curtailment—

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c); or

(2) is necessary in order to meet the requirements of high-priority users.

(b) Curtailment Priority Not Applicable if Alternative Fuel Available.—If the Commission, in consultation with the Secretary of Agriculture, determines, by rule or order, that use of a fuel (other than natural gas) is economically practicable and that the fuel is reasonably available as an alternative for any agricultural use of natural gas, the provisions of subsection (a) shall not apply with respect to any curtailment of deliveries for such use.

(c) Determination of Essential Agricultural Use Requirements.—The Secretary of Agriculture shall certify to the Secretary of Energy and the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production.

(d) Authority of Secretary of Agriculture to Intervene.—The Secretary of Agriculture may intervene as a matter of right in any proceeding before the Commission which is conducted in connection with implementing the requirements of the rule prescribed under subsection (a).

(e) Limitation.—The Secretary of Agriculture may not exercise any authority under this section for the purpose of restricting the production of any crop.

(f) Definitions.—For purposes of this section—

(1) Essential agricultural use.—The term "essential agricultural use", when used with respect to natural gas, means any use of natural gas—

(A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production.

(2) High-priority user.—The term "high-priority user" means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day;

(C) uses natural gas in any school, hospital, or similar institution; or

(D) uses natural gas in any other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property.

SEC. 402. NATURAL GAS FOR ESSENTIAL INDUSTRIAL PROCESS AND FEEDSTOCK USES.

(a) General Rule.—The Secretary of Energy shall prescribe and make effective a rule which provides that, notwithstanding any other provision of law (other than subsection (b)) and to the maximum extent practicable, no interstate pipeline may curtail deliveries of natural gas for any essential industrial process or feedstock use, unless such curtailment— 15 USC 3392.

(1) does not reduce the quantity of natural gas delivered for such use below the use requirement specified in subsection (c);

(2) is necessary in order to meet the requirements of high-priority users; or

(3) is necessary in order to meet the requirements for essential agricultural uses of natural gas for which curtailment priority is established under section 401.

(b) Curtailment Priority Applicable Only if Alternative Fuel Not Available.—The provisions of subsection (a) shall apply with respect to any curtailment of deliveries for any essential industrial process or feedstock use only if the Commission determines that use of a fuel (other than natural gas) is not economically practicable and that no fuel is reasonably available as an alternative for such use.

(c) Determination of Essential Industrial Use Requirements.—The Secretary of Energy shall determine and certify to the Commission the natural gas requirements (expressed either as volumes or percentages of use) of persons (or classes thereof) for essential industrial process and feedstock uses (other than those referred to in section 401 (f)(1)(B)).

(d) Definitions.—For purposes of this section—

(1) Essential industrial process or feedstock use.—The term "essential industrial process or feedstock use" means any use of natural gas in an industrial process or as a feedstock which the Secretary determines is essential.

(2) High-priority user.—The term "high-priority user" has the same meaning as given such term in section 401(f)(2).

SEC. 403. ESTABLISHMENT AND IMPLEMENTATION OF PRIORITIES.

15 USC 3393.

(a) Establishment of Priorities.—The Secretary of Energy shall prescribe the rules under sections 401 and 402 pursuant to his authority under the Department of Energy Organization Act to establish and review priorities for curtailments under the Natural Gas Act.

42 USC 7101 note.
15 USC 717w.

(b) Implementation of Priorities.—The Commission shall implement the rules prescribed under sections 401 and 402 pursuant to its authority under the Department of Energy Organization Act to establish, review, and enforce curtailments under the Natural Gas Act.

SEC. 404. LIMITATION ON REVOKING OR AMENDING CERTAIN PRE-1969 CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

15 USC 3394.

(a) General Rule.—The Commission may not, during the 10-year period beginning on the date of the enactment of this Act, revoke or amend any certificate of public convenience and necessity issued before January 1, 1969, under section 7 of the Natural Gas Act for the transportation of natural gas owned by any electric utility except upon the application of the person to whom such certificate was issued.

15 USC 717f.

(b) Commission Curtailment Authority.—The limitation under subsection (a) shall not affect the authority of the Commission to enforce any curtailment of deliveries of natural gas under the Natural Gas Act.

15 USC 717w.

TITLE V—ADMINISTRATION, ENFORCEMENT, AND REVIEW

SEC. 501. GENERAL RULEMAKING AUTHORITY.

15 USC 3411.

(a) In General.—Except where expressly provided otherwise, the Commission shall administer this Act. The Commission, or any other Federal officer or agency in which any function under this Act is vested or delegated, is authorized to perform any and all acts (including any appropriate enforcement activity), and to prescribe, issue, amend, and rescind such rules and orders as it may find necessary or appropriate to carry out its functions under this Act.

(b) Authority To Define Terms.—Except where otherwise expressly provided, the Commission is authorized to define, by rule, accounting, technical, and trade terms used in this Act. Any such definition shall be consistent with the definitions set forth in this Act.

(c) Delegation of Certain Determinations.—The Commission may delegate to any State agency (with the consent of such agency) any of its functions with respect to sections 105, 106(b), and 109(a) (1) and (3).

Ante, pp. 3363, 3365, 3368.

SEC. 502. ADMINISTRATIVE PROCEDURE.

15 USC 3412.

(a) Administrative Procedure Act.—Subject to subsection (b), the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order issued under this Act having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code; except that sections 554, 556, and 557 of such title 5 shall not apply to any order under such section 301, 302, or 303.

5 USC 551.

(b) Opportunity for Oral Presentations.—To the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded with respect to any proposed rule or order described in subsection (a) (other than an order under section 301, 302, or 303). To the maximum extent practicable, such opportunity shall be afforded before the effective date of such rule or order. Such opportunity shall be afforded no later than 30 days after such date in the case of a waiver of the entire comment period under section 553 (d)(3) of title 5, United States Code, and no later than 45 days after such date in all other cases. A transcript shall be made of any such oral presentation.

Transcript.

(c) Adjustments.—The Commission or any other Federal officer or agency authorized to issue rules or orders described in subsection (a) (other than an order under section 301, 302, or 303) shall, by rule, provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. Such rule shall establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, exception to, or exemption from, such applicable rules or orders. If any person is aggrieved or adversely affected by the denial of a request for adjustment under the preceding sentence, such person may request a review of such denial by the officer or agency and may obtain judicial review in accordance with section 506 when such denial becomes final. The officer or agency shall, by rule, establish procedures, including an opportunity for oral presentation of data, views, and arguments, for considering requests for adjustment under this subsection.

Review.

(d) Procedures Applicable for Incremental Pricing Determinations Respecting Imports.—Notwithstanding the preceding provisions of this section, any determination made under section 207(c) shall be made in accordance with the procedures applicable to the granting of any authority under the Natural Gas Act to import natural gas or liquefied natural gas (as the case may be).

15 USC 717w.

SEC. 503. DETERMINATIONS FOR QUALIFYING UNDER CERTAIN CATEGORIES OF NATURAL GAS.

(a) General Rule.—

15 USC 3413.

(1) Determination.—If any State or Federal agency makes any final determination which it is authorized to make under subsection (c) for purposes of—

(A) applying the definition of new natural gas under section 102(c);

Ante, p. 3358.

(B) deciding if certain natural gas produced from the Outer Continental Shelf qualifies under section 102(d) for the new natural gas ceiling price;

Ante, p. 3358.

(C) applying the definition of new, onshore production well under section 103(c);

Ante, p. 3361.

(D) applying the definition of high-cost natural gas under section 107(c); or

Ante, p. 3366.

(E) applying the definition of stripper well natural gas under section 108(b);

Ante, p. 3367.

such determination shall be applicable under this Act for such purposes unless such determination is reversed under the provisions of subsection (b) or unless such State or Federal agency has waived its authority under the provisions of subsection (c).

(2) NOTICE TO COMMISSION.—Any Federal or State agency making a determination under paragraph (1) shall provide timely notice in writing of such determination to the Commission. Such notice shall include such substantiation and be in such a manner as the Commission may, by rule, require.

(b) COMMISSION REVIEW.—

(1) AUTHORITY TO REVIEW AND REVERSE.—The Commission shall reverse any final State or Federal agency determination described in subsection (a) if—

(A) it makes a finding that such determination is not supported by substantial evidence in the record upon which such determination was made; and

(B) such preliminary finding and notice thereof under paragraph (3) is made within 45 days after the date on which the Commission received notice of such determination under subsection (a)(2) and the final such finding is made within 120 days after the date of the preliminary finding.

(2) REMAND ON BASIS OF COMMISSION INFORMATION.—If—

(A) the Commission finds that a State or Federal agency determination is not consistent with information contained in the public records of the Commission, and which is not part of the record upon which such determination was made; and

(B) such preliminary finding and notice thereof under paragraph (3) is made within 45 days after the date on which the Commission received notice of such determination under subsection (a)(2) and the final such finding is made within 120 days after the date of the preliminary finding,

it may remand the matter to such State or Federal agency for consideration of such information. If such agency, after consideration of the information transmitted to it by the Commission, affirms its previous determination, such determination, as so affirmed, shall be subject to review in accordance with this subsection (other than this paragraph).

(3) NOTICE.—The Commission shall provide notice of any proposed finding under this subsection to the State or Federal agency which made such determination and those parties identified in the notice to the Commission of such determination.

(4) JUDICIAL REVIEW OF COMMISSION ACTIONS.—

(A) REMANDS.—Any party identified in the notice to the Commission of a determination by a State or Federal agency may obtain review of any final decision by the Commission to remand under paragraph (2) in the United States Court of Appeals for any circuit in which such party is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. The reviewing court shall reverse any such decision if it finds such decision is arbitrary or capricious.

(B) Findings.—Any person aggrieved or adversely affected by a final finding of the Commission under paragraph (1) may within 60 days thereafter file a petition for review of such finding in the United States Court of Appeals for any circuit in which the party involved in such determination is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. The reviewing court shall reverse any such finding of the Commission if the State or Federal agency determination involved is supported by substantial evidence.

(c) State Authority.—

(1) General rule.—A Federal or State agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations referred to in subsection (a).

(2) Waiver.—

(A) In general.—Any Federal or State agency may, in whole or in part, waive its authority to make determinations referred to in subsection (a)(1) by entering into an agreement in accordance with subparagraph (B). If such agency executes such a waiver, the Commission shall, consistent with the agreement, make the determinations which would otherwise be made by such Federal or State agency until the earlier of—

(i) the expiration of the period specified in the agreement; or

(ii) the date such agency transmits to the Commission written notice that it terminates such waiver and assumes the authority to make determinations referred to in subsection (a)(1).

Any waiver, or termination of any waiver, shall not apply to any determination with respect to any petition therefor which is pending before such agency or the Commission (as the case may be) on the date on which such a waiver or revocation is made.

(B) Agreements.—Any waiver under subparagraph (A) may be made only by a written agreement between the Federal or State agency involved and the Commission. Any such agreement shall set forth the terms and conditions applicable to such waiver.

(3) Procedures applicable.—Determinations of a Federal or State agency referred to in subsection (a)(1) shall be made in accordance with the procedures generally applicable to such agency for the making of such determinations or comparable determinations under the provisions of Federal or State law, as the case may be, pursuant to which they exercise their regulatory jurisdiction. The Commission may prescribe the form and content of filings with a Federal or State agency in connection with determinations made under this section.

(4) Judicial review.—Any such determination referred to in subsection (a)(1) made in accordance with procedures described in paragraph (3) shall not be subject to judicial review under any Federal or State law except as provided under subsection (b).

(d) Effect of Determinations.—For purposes of this Act—

(1) General rule.—Any final determination referred to in subsection (a)(1) made by a Federal or State agency (or by the Commission under subsection (c)(2)) which relates to any natural gas and which is no longer subject to review by the Commission under this section or to judicial review shall thereafter be binding with respect to such natural gas. The preceding sentence shall not apply to any final determination—

(A) if in making such determination the Commission or such Federal or State agency relied on any untrue statement of a material fact; or

(B) if there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made, to the Federal or State agency in making such final determination or to the Commission in reviewing such determination.

(2) Application of title 18.—Any untrue statement or omission of material fact to a Federal or State agency upon which the Commission relied shall be deemed to be statement or entry under section 1001 of title 18, United States Code.

(e) Interim Collection of Maximum Lawful Price.—

(1) Collection of section 109 price.—

(A) General rule.—Effective beginning on the first day of the first month beginning after the date of the enactment of this Act, a seller of natural gas which is produced from a new well may, in accordance with subparagraph (B), charge and collect the appropriate maximum lawful price under section 109 for any first sale of such natural gas.

Ante, p. 3368.

(B) Requirements.—A seller may charge and make collections under subparagraph (A) only in accordance with the following requirements:

(i) Sworn statement.—Before any such collection is made, the seller shall file with the Commission, and any Federal or State agency having authority to make determinations referred to in subsection (a)(1), a written sworn statement that such natural gas is produced from a new well and that such seller believes in good faith that such natural gas is eligible under this Act to be sold at a price not less than the appropriate maximum lawful price under section 109.

(ii) Petition for determination.—Within 90 days after the date of the enactment of this Act, the seller files a petition to such Federal or State agency for a determination under this section.

(iii) Collection subject to refund.—Any such collection made by the seller pending a determination under this section shall be collected subject to a condition of refund, with interest, in the event it is determined by such Federal or State agency that the applicable maximum lawful price is lower than that provided under section 109.

(2) Alternate interim collection authority.—

(A) General rule.—Promptly after the date of the enactment of this Act, the Commission shall, by rule or order, provide one or more methods under which a seller of natural gas may, in accordance with requirements established, and for such period as may be prescribed, under such rule or order, charge and collect for any first sale of such natural gas the maximum lawful price under title I for which a petition is filed for a determination under this section in any case in which such price exceeds the appropriate maximum lawful price under section 109.

Ante, p. 3356.

Ante, p. 3368.

(B) Collection subject to refund.—Any such collection made by the seller pending a determination under section 503 shall be collected subject to a condition of refund, with interest. Such refund with interest shall be paid, in accordance with the rule under subparagraph (A), unless it is determined under this Act that the applicable maximum lawful price is equal to or greater than that collected. In addition, such seller shall comply with such requirements as the Commission shall prescribe in the applicable rule or order to provide adequate assurance that funds, to the extent attributable to a price in excess of the appropriate maximum lawful price under title I are available in the event of such refund.

(3) Collection after initial determination.—

(A) General rule.—Effective beginning on the date of the notice of a determination under subsection (a) (2), a seller of natural gas covered by such determination may, in accordance with subparagraph (B), charge and collect the appropriate maximum lawful price applicable under such determination.

(B) Requirements.—A seller may charge and make collections under subparagraph (A) if such collection is subject to conditions prescribed by the Commission to assure refund, with interest, in the event it is determined under this Act that the applicable maximum lawful price is lower than that provided under section 109.

SEC. 504. ENFORCEMENT.

(a) General Rule.—It shall be unlawful for any person—

15 USC 3414.

(1) to sell natural gas at a first sale price in excess of any applicable maximum lawful price under this Act; or

(2) to otherwise violate any provision of this Act or any rule or order under this Act.

(b) Civil Enforcement.—

(1) In general.—Except as provided in paragraphs (2) and (3), whenever it appears to the Commission that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Act, or of any rule or order thereunder, the Commission may bring an action in the District Court of the United States for the District of Columbia or any other appropriate district court of the United States to enjoin such act or practice and to enforce compliance with this Act, or any rule or order thereunder.

(2) Enforcement of emergency orders.—Whenever it appears to the President that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order under section 302 or any order or supplemental order issued under section 303, the President may bring a civil action in any appropriate district court of the United States to enjoin such acts or practices.

(3) ENFORCEMENT OF INCREMENTAL PRICING.—The Secretary, the Commission, or, on the request of the Secretary of Energy or the Commission, the Attorney General, may institute a civil action for injunctive or other equitable relief as may be appropriate to assure compliance with the provisions of section 205 requiring the passthrough of surcharges paid under section 204 by any local distribution company with respect to nautral gas delivered to incrementally priced industrial facilities served by such company. Such action may be instituted in any district court of the United States in the State in which such local distribution company conducts business or in the District Court of the United States for the District of Columbia.

Ante, p. 3378.
Ante, p. 3375.

(4) RELIEF AVAILABLE.—In any action under paragraph (1), (2), or (3), the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction without bond. In any such action, the court may also issue a mandatory injunction commanding any person to comply with any applicable provision of law, rule, or order, or ordering such other legal or equitable relief as the court determines appropriate, including refund or restitution.

(5) CRIMINAL REFERRAL.—The Commission may transmit such evidence as may be available concerning any acts or practices constituting any possible violations of the Federal antitrust laws to the Attorney General who may institute appropriate criminal proceedings.

(6) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly violates any provision of this Act, or any provision of any rule or order under this Act, shall be subject to—

(i) except as provided in clause (ii) a civil penalty, which the Commission may assess, of not more than $5,000 for any one violation; and

(ii) a civil penalty, which the President may assess, of not more than $25,000, in the case of any violation of an order under section 302 or an order or supplemental order under section 303.

Ante, p. 3382.
Ante, p. 3383.

(B) DEFINITION OF KNOWING.—For purposes of subparagraph (A), the term "knowing" means the having of—

(i) actual knowledge; or

(ii) the constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

(C) EACH DAY SEPARATE VIOLATION.—For purposes of this paragraph, in the case of a continuing violation, each day of violation shall constitute a separate violation.

(D) STATUTE OF LIMITATIONS.—No person shall be subject to any civil penalty under this paragraph with respect to any violation occurring more than 3 years before the date on which such person is provided notice of the proposed penalty under subparagraph (E). The preceding sentence shall not apply in any case in which an untrue statement of material fact was made to the Commission or a State or Federal agency by, or acquiesced to by, the violator with respect to the acts or omissions constituting such violation, or if there was omitted a material fact necessary in order to make any statement made by, or acquiesced to by, the violator with respect to such acts or omissions not misleading in light of circumstances under such statement was made.

(E) Assessed by commission.—Before assessing any civil penalty under this paragraph, the Commission shall provide to such person notice of the proposed penalty. Following receipt of notice of the proposed penalty by such person, the Commission shall, by order, assess such penalty.

(F) Judicial review.—If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (E), the Commission shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(c) Criminal Penalties.—

(1) Violations of act.—Except in the case of violations covered under paragraph (3), any person who knowingly and willfully violates any provision of this Act shall be subject to—

(A) a fine of not more than $5,000; or

(B) imprisonment for not more than two years; or

(C) both such fine and such imprisonment.

(2) Violation of rules or orders generally.—Except in the case of violations covered under paragraph (3), any person who knowingly and willfully violates any rule or order under this Act (other than an order of the Commission assessing a civil penalty under subsection (b)(4)(E)), shall be subject to a fine of not more than $500 for each violation.

(3) Violations of emergency orders.—Any person who knowingly and willfully violates an order under section 302 or an order or supplemental order under section 303 shall be fined not more than $50,000 for each violation. Ante, p. 3382. Ante, p. 3383.

(4) Each day separate violation.—For purposes of this subsection, each day of violation shall constitute a separate violation.

(5) Definition of knowingly.—For purposes of this subsection, the term "knowingly", when used with respect to any act or omission by any person, means such person—

(A) had actual knowledge; or

(B) had constructive knowledge deemed to be possessed by a reasonable individual who acts under similar circumstances.

SEC. 505. INTERVENTION.

(a) Authority To Intervene.—

(1) Intervention as matter of right.—The Secretary of Energy may intervene as a matter of right in any proceeding relating to the prorationing of, or other limitations upon, natural gas production which is conducted by any State agency having regulatory jurisdiction over the production of natural gas. 15 USC 3415.

(2) Enforcement of right to intervene.—The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene under paragraph (1).

(3) Access to information.—As an intervenor in a proceeding described in subsection (a), the Secretary shall have access to information available to other parties to the proceeding if such

information is relevant to the issues to which his participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State agency.

(b) ACCESS TO STATE COURTS.—

(1) REVIEW IN STATE COURTS.—The Secretary may obtain review of any determination made in any proceeding described in subsection (a)(1) in the appropriate State court if the Secretary intervened or otherwise participated in the original proceeding or if State law otherwise permits such review.

(2) PARTICIPATION AS AMICUS CURIAE.—In addition to his authority to obtain review under paragraph (1), the Secretary may also participate an amicus curiae in any judicial review of any proceeding described in subsection (a)(1).

SEC. 506. JUDICIAL REVIEW.

15 USC 3416.

(a) ORDERS.—

(1) IN GENERAL.—The provisions of this subsection shall apply to judicial review of any order, within the meaning of section 551(6) of title 5, United States Code (other than an order assessing a civil penalty under section 504(b)(4) or any order under section 302 or any order under section 303), issued under this Act and to any final agency action under this Act required to be made on the record after an opportunity for an agency hearing.

Ante, pp. 3382, 3383.

(2) REHEARING.—Any person aggrieved by any order issued by the Commission in a proceeding under this Act to which such person is a party may apply for a rehearing within 30 days after the issuance of such order. Any application for rehearing shall set forth the specific ground upon which such application is based. Upon the filing of such application, the Commission may grant or deny the requested rehearing or modify the original order without further hearing. Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied. No person may bring an action under this section to obtain judicial review of any order of the Commission unless—

(A) such person shall have made application to the Commission for a rehearing under this subsection; and

(B) the Commission shall have finally acted with respect to such application.

For purposes of this section, if the Commission fails to act within 30 days after the filing of such application, such failure to act shall be deemed final agency action with respect to such application.

(3) AUTHORITY TO MODIFY ORDERS.—At any time before the filing of the record of a proceeding in a United States Court of Appeals, pursuant to paragraph (4), the Commission may, after providing notice it determines reasonable and proper, modify or set aside, in whole or in part, any order issued under the provisions of this Act.

(4) JUDICIAL REVIEW.—Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by

filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 60 days after the final action of the Commission on the application for rehearing required under paragraph (2). A copy of such petition shall forthwith be transmitted by the clerk of such court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part. No objection to such order of the Commission shall be considered by the court if such objection was not urged before the Commission in the application for rehearing unless there was reasonable ground for the failure to do so. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and shall file with the court such modified or new findings, which if supported by substantial evidence, shall be conclusive. The Commission shall also file with the court its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(5) Orders remain effective.—The filing of an application for rehearing under paragraph (2) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under paragraph (4) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(b) Review of Rules and Orders.—Except as provided in subsections (a) and (c), judicial review of any rule or order, within the meaning of section 551(4) of title 5, United States Code, issued under this Act may be obtained in the United States Court of Appeals for any appropriate circuit pursuant to the provisions of chapter 7 of title 5, United States Code, except that the second sentence of section 705 thereof shall not apply.

5 USC 701 *et seq.*
5 USC 705.

(c) Judicial Review of Emergency Orders.—Except with respect to enforcement of orders or subpenas under section 304(a), the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended, shall have exclusive original jurisdiction to review all civil cases and controversies under section 301, 302, or 303, including any order issued, or other action taken, under such section. The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from

12 USC 1904 note.

Ante, pp. 3381–3383.

the district courts of the United States in cases and controversies arising under section 304(a)(2); such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days after the entry of judgment by the district court. Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, under section 301, 302, or 303.

Ante, pp. 3381–3383.

Ante, p. 3380.

15 USC 717w.

(d) Judicial Review of Certain Incremental Pricing Determinations.—Notwithstanding the preceding provisions of this section, any final determination made under section 207(c) shall be subject to judicial review in accordance with the provisions of the Natural Gas Act applicable to judicial review of any final determination respecting the grant or denial of any authority to import natural gas or liquefied natural gas.

SEC. 507. CONGRESSIONAL REVIEW.

15 USC 3417.

Ante, p. 3370.

(a) Application.—This section applies with respect to—

(1) any disapproval by concurrent resolution of a Presidential reimposition of maximum lawful prices under section 122;

(2) any congressional reimposition by concurrent resolution of maximum lawful prices under section 122; and

Ante, pp. 3372, 3379.

(3) any resolution of disapproval relating to incremental pricing under section 202(c) or 206(d)(2).

(b) Determination of Calendar Days of Continuous Session.—In determining calendar days of continuous session for purposes of provisions of this Act providing for disapproval under this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period involved.

If both Houses are not in session on the day any submittal subject to disapproval is received by the appropriate officers of each House, for purposes of this section such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If both Houses of the Congress do not receive a submittal on the same day, it shall not be considered to be received by either House until the day on which both Houses receive it.

(c) Resolution.—For purposes of this section, and sections 122, 202, and 206—

(1) Concurrent resolution disapproving reimposition of price ceilings.—The term "concurrent resolution of disapproval", when used with respect to reimposition of maximum lawful prices under section 122(c)(1), means a resolution the matter after the resolving clause of which is as follows: "That the Congress does not approve of the reimposition of maximum lawful prices for first sales of natural gas under section 122(c)(1) of the Natural Gas Policy Act of 1978 pursuant to the transmittal by the President to the Congress on , 19 .", the blank spaces being filled with the appropriate date.

(2) Concurrent resolution effecting reimposition of price ceilings.—The term "concurrent resolution", when used with respect to reimposition of maximum lawful prices under section 122(c)(2), means a resolution the matter after the resolving clause of which is as follows: That the Congress favors reimposition of maximum lawful prices for first sales of natural gas as

provided for under section 122(c)(2) of the Natural Gas Policy Act of 1978.".

(3) Resolution of disapproval of incremental pricing action.—The term "resolution of disapproval", when used with respect to incremental pricing rules, means a resolution the matter after the resolving clause of which is as follows: "That the   does not approve the proposed rule under section   of the Natural Gas Policy Act of 1978 (relating to incremental pricing of natural gas) a copy of which was trasnmitted to the Congress on   .", the first blank being filled with the House in which such resolution is introduced, the second blank space being filled with the section under which proposed rule was issued, and the following blank spaces being filled with the appropriate date. For purposes of this paragraph, the term "rule" means any rule or any amendment thereto (other than a technical or clerical amendment). *Ante*, p. 3370. *Ante*, p. 3350.

(d) Expedited Procedure.—

(1) Congressional rulemaking power.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Referral.—A resolution described by paragraph (2) once introduced with respect to any submittal shall immediately be referred to a committee (and all resolutions with respect to the same submittal shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(3) Discharge.—

(A) In general.—If the committee to which a resolution with respect to a submittal has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such submittal which has been referred to the committee.

(B) Motions.—A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same submittal) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) **Renewal.**—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same submittal.

(4) **Floor consideration.**—

(A) **Motion to consider.**—When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) **Debate and consideration.**—Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) **Determination on motions.**—

(A) **Motions to postpone or to proceed to other business.**—Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) **Appeals from the decision of the chair.**—Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) **Subsequent action.**—Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a submittal, then it shall not be in order to consider in that House any other resolution with respect to the same such submittal.

SEC. 508. TECHNICAL PROVISIONS.

42 USC 7255.

(a) **Section 645 of the Department of Energy Organization Act.**—Section 645 of the Department of Energy Organization Act is amended by inserting at the end thereof the following new sentence: "For purposes of carrying out its responsibilities under the Natural Gas Policy Act of 1978, the Commission shall have the same powers and authority as the Secretary has under this section.".

Ante, p. 3351.

15 USC 3418.
42 USC 7151.

(b) **Section 301(a) of the Department of Energy Organization Act.**—In order to obtain information for the purpose of carrying out its functions under this Act, the Commission shall have the same authority as is vested in the Secretary under section 301(a) of the Department of Energy Organization Act with respect to the exercise of authority under section 11(b) of the Energy Supply and Environmental Coordination Act of 1974 and sections 13 (b), (c), and (d) of the Federal Energy Administration Act of 1974.

15 USC 796.
15 USC 772.

TITLE VI—COORDINATION WITH NATURAL GAS ACT; MISCELLANEOUS PROVISIONS

SEC. 601. COORDINATION WITH THE NATURAL GAS ACT.

(a) JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT.—

15 USC 3431.
15 USC 717w.

(1) SALES.—

(A) NATURAL GAS NOT COMMITTED OR DEDICATED.—For purposes of section 1(b) of the Natural Gas Act, effective on the first day of the first month beginning after the date of the enactment of this Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to natural gas which was not committed or dedicated to interstate commerce as of the day before the date of enactment of this Act solely by reason of any first sale of such natural gas.

15 USC 717.

(B) COMMITTED OR DEDICATED NATURAL GAS.—Effective beginning on the first day of the first month beginning after the date of the enactment of this Act, for purposes of section 1(b) of the Natural Gas Act, the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act and which is—

(i) high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4) of this Act);

Ante, p. 3366.

(ii) new natural gas (as defined in section 102(c) of this Act); or

Ante, p. 3358.

(iii) natural gas produced from any new, onshore production well (as defined in section 103(c) of this Act).

Ante, p. 3361.

(C) AUTHORIZED SALES OR ASSIGNMENTS.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply by reason of any sale of natural gas—

15 USC 717.
15 USC 717w.
Ante, pp. 3382, 3388.

(i) authorized under section 302(a) or 311(b); or

(ii) pursuant to any assigned authorized under section 312(a).

(D) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term "natural-gas company" (as defined in section 2(6) of such Act) shall not include any person by reason of, or with respect to, any sale of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission do not apply to such sale solely by reason of subparagraph (A), (B), or (C) of this paragraph.

15 USC 717w.
15 USC 717a.

(E) ALASKAN NATURAL GAS.—Subparagraph (B) (ii) and (iii) shall not apply with respect to natural gas produced from the Prudhoe Bay unit of Alaska and transported through the transportation system approved under the Alaska Natural Gas Transportation Act of 1976.

(2) TRANSPORTATION.—

15 USC 719 note.

(A) JURISDICTION OF THE COMMISSION.—For purposes of section 1(b) of the Natural Gas Act the provisions of such Act and the jurisdiction of the Commission under such Act shall not apply to any transportation in interstate commerce of natural gas if such transportation is—

15 USC 717.

Ante, pp. 3382, 3383.

(i) pursuant to any order under section 302(c) or section 303 (b), (c), (d), or (h) of this Act; or

Ante, p. 3388.

(ii) authorized by the Commission under section 311 (a) of this Act.

15 USC 717w.
15 USC 717a.

(B) NATURAL-GAS COMPANY.—For purposes of the Natural Gas Act, the term "natural-gas company" (as defined in section 2(6) of such Act) shall not include any person by reason of, or with respect to, any transportation of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission under the Natural Gas Act do not apply to such transportation by reason of subparagraph (A) of this paragraph.

(b) CHARGES DEEMED JUST AND REASONABLE.—

(1) SALES.—

15 USC 717c, 717d.

(A) FIRST SALES.—Subject to paragraph (4), for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if—

Ante, p. 3356.

(i) such amount does not exceed the applicable maximum lawful price established under title I of this Act; or

Ante, p. 3369.

(ii) there is no applicable maximum lawful price solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act.

15 USC 717c, 717d.
Ante, p. 3382.

(B) EMERGENCY SALES.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any sale authorized under section 302(a) shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established under such section and applicable to such sale.

15 USC 717c, 717d.
Ante, p. 3388.

(C) SALES BY INTRASTATE PIPELINES.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any sale authorized by the Commission under section 311(b) shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established by the Commission and applicable to such sale.

15 USC 717c, 717d.

(D) ASSIGNMENTS.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid pursuant to the terms of any contract with respect to that portion of which the Commission has authorized an assignment authorized under section 312(a) shall be deemed to be just and reasonable if such amount does not exceed the applicable maximum lawful price established under title I of this Act.

Ante, p. 3356.

(E) AFFILIATED ENTITIES LIMITATION.—For purposes of paragraph (1), in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid in any first sale shall be deemed to be just and reasonable if, in addition to satisfying the requirements of such paragraph, such amount does not exceed the amount paid in comparable first sales between persons not affiliated with such interstate pipeline.

(2) OTHER CHARGES.—

15 USC 717c, 717d.

(A) ALLOCATION.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid by any interstate pipeline for transportation, storage, delivery or other services provided pursuant to any order under section 303 (b), (c), or (d) of this Act shall be deemed to be just and reasonable if

Ante, p. 3383.

such amount is prescribed by the President under section 303(h)(1). *Ante*, p. 3383.

(B) TRANSPORTATION.—For purposes of sections 4 and 5 of the Natural Gas Act, any amount paid by any interstate pipeline for any transportation authorized by the Commission under section 311(a) of this Act shall be deemed to be just and reasonable if such amount does not exceed that approved by the Commission under such section. 15 USC 717c, 717d. *Ante*, p. 3388.

(c) GUARANTEED PASSTHROUGH.—

(1) CERTIFICATE MAY NOT BE DENIED BASED UPON PRICE.—The Commission may not deny, or condition the grant of, any certificate under section 7 of the Natural Gas Act based upon the amount paid in any sale of natural gas, if such amount is deemed to be just and reasonable under subsection (b) of this section. 15 USC 717f.

(2) RECOVERY OF JUST AND REASONABLE PRICES PAID.—For purposes of sections 4 and 5 of the Natural Gas Act, the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if— 15 USC 717c, 717d.

(A) under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act, and

(B) such recovery is not inconsistent with any requirement of any rule under section 201 (including any amendment under section 202), *Ante*, p. 3371. *Ante*, p. 3372.

except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

SEC. 602. EFFECT ON STATE LAWS.

(a) AUTHORITY TO PRESCRIBE LOWER MAXIMUM LAWFUL PRICES.—Nothing in this Act shall affect the authority of any State to establish or enforce any maximum lawful price for the first sale of natural gas produced in such State which does not exceed the applicable maximum lawful price, if any, under title I of this Act. 15 USC 3432. *Ante*, p. 3356.

(b) COMMON CARRIERS.—No person shall be subject to regulation as a common carrier under any provision of Federal or State law by reason of any transportation—

(1) pursuant to any order under section 302(c) or section 303(b), (c), (d), or (i) of this Act; or *Ante*, pp. 3382, 3383.

(2) authorized by the Commission under section 311(a) of this Act. *Ante*, p. 3388.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96–437 (Comm. on Ways and Means) and No. 95–1752 (Comm. of Conference).
SENATE REPORTS: No. 95–423 (Comm. on Finance) and No. 95–1126 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 123 (1977): July 18, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 13, House agreed to certain Senate amendments; agreed to Senate amendment No. 8 with an amendment.
Vol. 124 (1978): Sept. 12–15, 18, 19, 25, 27, Senate agreed to conference report and to House amendment of Senate amendment No. 8.
Oct. 15, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 45 (1978): Nov. 9, Presidential statement.

Public Law 95-622
95th Congress

An Act

Nov. 9, 1978
[S. 2450]

To amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community Mental Health Centers Act, amendments.

TITLE I—COMMUNITY MENTAL HEALTH CENTERS EXTENSION

SHORT TITLE; REFERENCE TO ACT

Community Mental Health Centers Extension Act of 1978.
42 USC 2689 note.

SEC. 101. (a) This title may be cited as the "Community Mental Health Centers Extension Act of 1978".

(b) Whenever in this title (other than in sections 109 and 110(d)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

42 USC 2689 note.

EXTENSIONS OF AUTHORIZATIONS

42 USC 2689a.

SEC. 102. (a) Section 202(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$1,500,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689b.

(b)(1) Section 203(d)(1) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$34,500,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980".

(2) Section 203(d)(2) is amended (A) by striking out "1978" and inserting in lieu thereof "1980", and (B) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years".

42 USC 2689c.

(c) Section 204(c) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689d.

(d) Section 205(c) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980".

42 USC 2689g.

(e) Section 212(c) is amended by striking out "three" and inserting in lieu thereof "five".

42 USC 2689h.

(f) Section 213 is amended by striking out "and" after "1977,", and inserting after "1978," the following: "and $25,000,000 for the fiscal year ending September 30, 1979,".

42 USC 2689q.

(g) Section 231(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following:

"$8,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980".

USE OF UNOBLIGATED FUNDS

Grants.
42 USC 2689b.

SEC. 103. (a)(1) Subsection (b)(1) of section 203 is amended by adding before the period a comma and the following: "except that if at the end of such period a center or entity has not obligated all the funds received by it under a grant, the center or entity may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center or entity is eligible to receive a grant under subsection (a) for such succeeding year".

(2) Subsection (c) of such section is amended by adding at the end the following: "The amount of a grant prescribed by paragraph (1) or (2) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in that year. If in a fiscal year the sum of (i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (ii) the amount of the grant received under this section, by a center or entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such a center or entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

(b)(1) Paragraph (1)(A) of subsection (e) of such section is amended (A) by striking out "and" at the end of clause (i), (B) by redesignating clause (ii) as clause (iii), and (C) by inserting after clause (i) the following:

"(ii) the amount prescribed for a grant under the applicable repealed section for an entity for any year shall be reduced by the amount of unobligated funds from the preceding fiscal year which the entity is authorized, under subparagraph (B) of this paragraph, to use in that year, and".

(2) Paragraph (1)(B) of such subsection is amended by inserting before the period a comma and the following: "except that if at the end of any period for which such a grant is made an entity has not obligated all of the funds received by it under the grant, the entity may use the unobligated funds under such grant in the succeeding grant period for the same purposes for which such grant was made but only if the entity is eligible to receive such a grant for such grant period".

(3) Paragraph (1) of such subsection is amended by adding at the end the following new sentence: "If in a fiscal year the sum of (I) the

total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (II) the amount of the grant received under the applicable repealed section, by an entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the entity is eligible to receive a grant under such an applicable repealed section in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such an entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

COMMUNITY MENTAL HEALTH CENTERS REQUIREMENTS

42 USC 2689.

SEC. 104. (a)(1) Section 201(b)(1) is amended to read as follows:

"(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

"(A) Beginning on the date the community mental health center is established for purposes of this title, the services provided through the center shall include—

"(i) inpatient services, emergency services, and outpatient services;

"(ii) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

"(iii) provision of followup care for residents of its catchment area who have been discharged from inpatient treatment at a mental health facility;

"(iv) consultation and education services which—

"(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

"(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's catchment area, promote the coordination of the provision of mental health services among various entities serving the center's catchment area, increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

"(v) the services described in subparagraph (B) or, in lieu of such services, providing a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

"(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

"(i) day care and other partial hospitalization services;

"(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

"(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

"(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics. Alcohol abuse program.

"(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.". Drug abuse program. 42 USC 2689c.

(2) Section 204 is amended by striking out "section 201(b)(1)(D)" each place it appears and inserting in lieu thereof "section 201(b)(1)(A)(iv)".

(b) Clause (A) of section 201(b)(2) is amended by inserting after "in the center's catchment area" the following: ", or, with the approval of the Secretary, in the case of inpatient services, emergency services, and transitional half-way house services, through appropriate arrangements with health professionals and others serving the residents of the catchment area". 42 USC 2689.

(c)(1) Section 201(c)(1) is amended—

(A) by striking out "The governing board of a community mental health center (other than a center described in subparagraph (B))" and inserting in lieu thereof "Except as provided in subparagraph (B), the governing board of a community mental health center"; and

(B) by amending subparagraph (B) to read as follows:

"(B) In the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of subparagraph (A), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.".

42 USC 2689e.

(2) Section 206(e) is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

42 USC 2689b, 2689c, 2689d.

42 USC 2689.

"(2)(A) Except as provided in subparagraph (B), not more than 5 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to provide grants under those sections to community mental health centers which do not meet the governing board requirements of section 201(c)(1)(A).

"(B) Subparagraph (A) shall not apply, during the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980, to any community mental health center which received a grant under this title in a fiscal year beginning before the date of the enactment of the Community Mental Health Centers Amendments of 1975.".

42 USC 2689 note.

OPERATIONS GRANTS TECHNICAL ASSISTANCE AND MONITORING

Contract authority.

SEC. 105. Section 206(e), as amended by section 104(c)(2) of this title, is amended by adding at the end the following new paragraph:

"(3) Not more than 1 per centum of the total amount appropriated under section 203, 204, and 205 for any fiscal year shall be used by the Secretary to enter into contracts with State mental health authorities under which the authorities (A) would monitor activities of community mental health centers (other than centers operated by such authorities) receiving grants under this title to determine if the requirements of this title applicable to the receipt of such grants are being met, and (B) would be provided funds to meet the expenses of conducting such monitoring. The authority of the Secretary to enter into contracts under this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

APPLICATIONS

SEC. 106. Section 206(c)(2) is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows: "The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application meets the requirements of paragraph (1) and, except as provided in paragraph (3)—";

(2) by inserting "the Secretary" before "determines" in subparagraphs (A) and (B); and

(3) by striking out "and" at the end of clause (iii) of subparagraph (B), by striking out the period at the end of clause (iv) of such subparagraph and inserting in lieu thereof a semicolon, and by adding after such subparagraph the following new subparagraphs:

National Advisory Mental Health Council, grant approval.

"(C) in the case of an application for the first grant under section 203, 204, or 205, or an application for a grant under such section which requests a grant in an amount greater than the

best copy available

amount specified by the applicant in its plan and budget submitted in accordance with paragraph (1)(A)(i), the application is recommended for approval by the National Advisory Mental Health Council; and

"(D) in the case of an application of a community mental health center which does not meet the governing board requirements of section 201(c)(1)(A), the committee appointed pursuant to section 201(c)(1)(B) has approved the application or, if such committee has not approved the application, the Secretary determines that the committee's failure to approve the application was unreasonable.".

42 USC 2689.

CATCHMENT AREAS

SEC. 107. Section 238(2) is amended by inserting "health service areas," after "political subdivisions,".

42 USC 2689u.

RAPE CONTROL

SEC. 108. Section 231(c) is amended by inserting after the first sentence the following: "The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee.".

42 USC 2689q.

STATE MENTAL HEALTH PROGRAMS

SEC. 109. Subsection (g) of section 314 of the Public Health Service Act is amended to read as follows:

42 USC 246.

"STATE MENTAL HEALTH PROGRAMS

"(g)(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State mental health authorities to assist them in meeting the costs of carrying out their functions under title XV of this Act and under section 237 of the Community Mental Health Centers Act and, after September 30, 1979, in meeting the costs of providing mental health services.

Grants.

42 USC 300k-1.
42 USC 2689t.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the mental health services provided within the State under the grant applied for will be provided in accordance with the State health plan in effect for such State under section 1524(c);

42 USC 300m-3.

"(B) funds received under the grant applied for will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

"(C) the State mental health authority will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds received under grants under paragraph (1);

Reports.

"(ii) from time to time, but not less often than annually, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the mental health services provided in the State in the fiscal year for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

"(iii) make such reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

State mental health authority, duties.
42 USC 2689t.

"(D) the State mental health authority will—

"(i) perform the duties prescribed by section 237 of the Community Mental Health Centers Act;

"(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) within the State;

"(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or, if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities; and

"(iv) establish and carry out a plan which—

"(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate, and

Consultation with Labor Secretary.

"(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum effort will be made to guarantee the employment of such employees.

State authority, annual review of activities.

"(3)(A) The Secretary shall review annually the activities undertaken by each State mental health authority with an approved application to determine if it complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) he cannot be assured that the State will comply with the assurances provided with the application under consideration.

Grant payments, termination.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply substantially with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or, in his discretion, that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant, or shall limit payment under such grant to activities in which there is no such failure.

"(4) For the purpose of determining the total amount of grants that may be made to the State mental health authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

"(5)(A) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(B) The Secretary, at the request of a State mental health authority, may reduce the amount of the grant to the authority under paragraph (1) by—

"(i) the fair market value of any supplies or equipment furnished the State mental health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee.

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State mental health authority and for the purpose of carrying out any project with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State mental health authority.

"(6) In any fiscal year not less than 70 per centum of the amount of a State's grant shall be available only for the provision of mental health services and for the conduct of mental health planning activities in communities of the State.

Appropriation authorization.

"(7) For the purpose of making grants under this subsection there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $25,000,000 for the fiscal year ending September 30, 1981.

Regulations.

"(8) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State mental health authorities. The Secretary shall consult with such conference before the publication of proposals for such regulations or amendments.".

MISCELLANEOUS

42 USC 2689f.

SEC. 110. (a) Section 211(1)(A) is amended (1) by inserting "for compensation of personnel for its initial operation" after "1975)", and (2) by inserting "for such compensation of personnel" after "under that section".

42 USC 2689b.
42 USC 2689.
42 USC 2688u.

(b) Section 203(e)(1)(A)(i) is amended by striking out "unless it meets the requirements of section 201" and inserting in lieu thereof the following: "(other than section 271) unless it provides at least the comprehensive mental health services described in clauses (i) through (iv) of section 201(b)(1)(A)".

42 USC 2689m.

(c) Effective July 29, 1975, section 225 is amended by striking out "this part" and inserting in lieu thereof "this title".

42 USC 4588.

(d) Section 504(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (2) the following: "Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable geographic distribution of Centers.".

EFFECTIVE DATE

42 USC 2689 note.

SEC. 111. The amendments made by this title (other than by section 110(c)) to the Community Mental Health Centers Act shall apply with respect to grants made under the Community Mental Health Centers Act from appropriations for fiscal years ending after September 30, 1978.

Biomedical Research and Research Training Amendments of 1978.

TITLE II—BIOMEDICAL RESEARCH EXTENSION AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

42 USC 201 note.

SEC. 201. (a) This title may be cited as the "Biomedical Research and Research Training Amendments of 1978".

42 USC 201 note.

(b) Whenever in this title (other than in sections 267 and 268) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

PART A—LIBRARIES OF MEDICINE

EXTENSION OF AUTHORIZATIONS

42 USC 280b.

SEC. 211. Section 390(c) is amended by striking out "and" after "1976," and by inserting before the period the following: ", $15,000,000 for the fiscal year ending September 30, 1979, $16,500,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981".

BOARD OF REGENTS' APPOINTMENTS

Sec. 212. Section 383 is amended (1) by striking out "by the President, by and with the advice and consent of the Senate" in the first sentence of subsection (a) and inserting in lieu thereof "by the Secretary", and (2) by striking out "by the President" in the first sentence of subsection (c) and inserting in lieu thereof "by the Secretary". 42 USC 277.

Part B—Programs of the National Heart, Lung, and Blood Institute

EXTENSION OF AUTHORIZATIONS

Sec. 221. (a) Section 414(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $40,000,000 for the fiscal year ending September 30, 1979, and $45,000,000 for the fiscal year ending September 30, 1980". 42 USC 287c.

(b) Section 419B is amended in the first sentence by striking out "and" after "1977," and by inserting before the period the following: ", $470,000,000 for the fiscal year ending September 30, 1979, and $515,000,000 for the fiscal year ending September 30, 1980". 42 USC 287i.

SUBMISSION OF REPORTS

Sec. 222. (a) Section 413(b)(2) is amended by striking out "submit to the President for transmittal to the Congress a report" and inserting in lieu thereof "submit a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,". 42 USC 287b.

(b) Section 418(b)(2) is amended by inserting "by the Secretary" after "transmittal". 42 USC 287g.

INFORMATION PROGRAMS

Sec. 223. (a) Section 412(5) is amended by striking out "make available" and inserting in lieu thereof "make available on a timely basis". 42 USC 287a.

(b) Section 413(d) is amended (1) by striking out "to provide" in the second sentence and inserting in lieu thereof "to provide on a timely basis", and (2) by striking out "diet" in the third sentence and inserting in lieu thereof "diet and nutrition, environmental pollutants". 42 USC 287b.

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

Sec. 224. Section 415(a)(2) is amended by adding after subparagraph (D) the following: 42 USC 287d.

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases."

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

Subpart I—Extension of and Substantive Changes in Programs of the National Cancer Institute

EXTENSION OF AUTHORIZATIONS

42 USC 286c.

SEC. 231. (a) Section 409(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $90,500,000 for the fiscal year ending September 30, 1979, and $103,000,000 for the fiscal year ending September 30, 1980".

42 USC 286g.

(b) Section 410C is amended by striking out "and" after "1977;" and by inserting before the period the following: "$924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980".

NATIONAL CANCER ADVISORY BOARD

42 USC 286f.

SEC. 232. (a)(1)(A) Subsection (a) of section 410B is amended by striking out "twenty-three" and inserting in lieu thereof "twenty-nine".

(B) Paragraph (1) of such subsection is amended by inserting after "Veterans' Administration" the following: ", the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission".

(2) The first sentence of such subsection following paragraph (2) is amended (A) by striking out "and not more" and inserting in lieu thereof ", not more", and (B) by inserting before the period ", and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)".

(3) The second sentence of such subsection following paragraph (2) is amended by inserting before the period a comma and the following: "and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer".

(4) Such subsection is amended by adding at the end the following: "The ex officio members of the Board shall be nonvoting members.".

Reports.

(5) Section 410B(g) is amended by striking out "a report to the President for transmittal to the Congress not later than January 31 of each year on the progress" and inserting in lieu thereof "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress, on the progress during the preceding fiscal year".

42 USC 286f note.

(b) The amendments made by subsection (a) of this section respecting the manner of appointing members of the National Cancer Advisory Board and the composition of such Board shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendments.

SUBMISSION OF REPORTS

SEC. 233. Section 410A(b) is amended (1) by striking out "end of each calendar year" and inserting in lieu thereof "end of each fiscal year", (2) by striking out "submit to the President for transmittal to the Congress" and inserting in lieu thereof "submit to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,", and (3) by striking out "the preceding calendar year" and inserting in lieu thereof "the preceding fiscal year".

42 USC 286e.

FUNCTIONS OF CENTERS

SEC. 234. (a) Subsections (a) and (b) of section 408 are each amended by striking out "clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer" and inserting in lieu thereof "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer".

42 USC 286b.

(b) Clause (3) of the second sentence of section 408(b) is amended by inserting after the comma the following: "continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer,".

NATIONAL CANCER PROGRAM

SEC. 235. (a) Paragraph (1) of subsection (b) of section 407 is amended by striking out ", plan and develop" and inserting in lieu thereof "(A) plan and develop", and by inserting before the period the following: "; and (B) implement an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens".

42 USC 286a.

(b) Paragraph (7) of such subsection is amended to read as follows:

"(7) Support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards."

(c) The first sentence of subsection (c)(3) of such section is amended by striking out "twelve times" and inserting in lieu thereof "four times".

CANCER CONTROL PROGRAMS

SEC. 236. (a) Subsection (a) of section 409 is amended to read as follows:

42 USC 286c.

"(a) The Director of the National Cancer Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this subsection shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.".

Subpart II—Technical Revision of the Authority of the National Cancer Institute

TECHNICAL REVISION

42 USC 281. **Sec. 241.** (a) (1) Part A of title IV (as amended by subpart I of this part) is amended to read as follows:

"Part A—National Cancer Institute

"A DIVISION OF THE NATIONAL INSTITUTES OF HEALTH

42 USC 281. "**Sec. 400.** The National Cancer Institute (in this part referred to as the 'Institute') is a division of the National Institutes of Health.

"CANCER RESEARCH AND OTHER ACTIVITIES

42 USC 282.
42 USC 241. "**Sec. 401.** (a) In carrying out the purposes of section 301 with respect to cancer, the Secretary, through the Institute and in cooperation with the National Cancer Advisory Board, shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies and organizations and by individuals;

"(3) provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

"(4) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

"(5) cooperate with State health agencies in the prevention, control, and eradication of cancer; and

"(6) procure, use, and lend radium as provided in subsection (b).

"(b) In carrying out subsection (a), all appropriate provisions of section 301 shall be applicable to the authority of the Secretary, and the Secretary is authorized—

41 USC 5. "(1) to purchase radium, from time to time and without regard to section 3709 of the Revised Statutes, and to make such radium

available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe; and

"(2) to provide the necessary facilities where training and instruction may be given in all technical matters relating to the diagnosis and treatement of cancer to persons found by the Secretary to have proper technical qualifications and designated by him for such training or instruction and to fix and pay them a per diem allowance during such training or instruction.

"NATIONAL CANCER PROGRAM

"SEC. 402. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute. 42 USC 283.

"CANCER CONTROL PROGRAMS

"SEC. 403. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include— 42 USC 284.

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"DUTIES AND FUNCTIONS OF THE DIRECTOR

"SEC. 404. (a) The Director of the Institute in carrying out the National Cancer Program shall— 42 USC 285.

"(1) collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

"(2) establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;

"(3) support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States;

"(4) support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards;

"(5) expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise;

"(6) encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(7) provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer;

Report to President and Congress.

"(8)(A) prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute; and

Report to President and Congress.

"(9) as soon as practicable after the end of each fiscal year, prepare in consultation with the National Cancer Advisory Board and submit to the Secretary, for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress, a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding fiscal year, which shall include a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the Program, and a plan for the Program during the next five years.

"(b) The Director of the Institute (after consultation with the National Cancer Advisory Board) in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act is authorized—

"(1) to obtain (in accordance with section 3109 of title 5, United States Code and if authorized by the National Cancer Advisory

Board, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution;

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally;

"(9) to award grants for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program; and Grants.

"(10) to call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"SCIENTIFIC REVIEW

"SEC. 405. (a) The Director of the Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, 42 USC 286.

and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

Grants.

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

"(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit, and

"(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by the National Cancer Advisory Board under section 407(b)(3).

42 USC 286a.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

Establishment. 42 USC 286a.

"SEC. 406. (a) The Director of the Institute is authorized to provide for the establishment of new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

Cooperative agreements.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 477), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the cost of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 472. Support of a center under this section may

Post, p. 3432.

42 USC 289*l*-1.

be for a period of not to exceed three years and may be extended by the Director of the Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the Institute.

"NATIONAL CANCER ADVISORY BOARD

Establishment.
42 USC 286b.

"SEC. 407. (a)(1) There is established in the Institute a National Cancer Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-nine members as follows:

"(A) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

"(B) Eighteen members appointed by the President.

Not more than twelve of the appointed members of the Board shall be scientists or physicians, not more than eight of the appointed members shall be representatives from the general public, and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors). The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto, and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the Institute. The ex officio members of the Board shall be nonvoting members.

"(2)(A) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(B) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(C) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

"(3) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

"(4) The Board shall meet at the call of the Director of the Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the Institute with respect to the National Cancer Program.

"(5) The Director of the Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

Hearings. "(6) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

Reports. "(7) The Board shall submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and the Congress, on the progress during the preceding fiscal year of the National Cancer Program toward the accomplishment of its objectives.

Compensation. "(8) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently. **5 USC 5332 note.**

"(9) The Director of the Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"(b) The Board is authorized—

"(1) to review research projects or programs conducted or authorized to be conducted under section 401 relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer; ***Ante*, p. 3424.**

"(2) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

"(3) to review applications for grants for research projects relating to cancer and to recommend to the Director for approval under section 405(b)(2) those applications which show promise of making valuable contributions to human knowledge with respect to the cause or prevention of cancer or to methods of diagnosis or treatment of cancer; ***Ante*, p. 3427.**

"(4) to recommend to the Secretary for acceptance conditional gifts pursuant to section 501 of this Act; and **42 USC 219.**

"(5) to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"PRESIDENT'S CANCER PANEL

Establishment. 42 USC 286c. "SEC. 408. (a)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

“(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

“(B) The President shall designate one of the members to serve as Chairman for a term of one year.

“(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

5 USC 5332 note.

“(3) The Panel shall meet at the call of the Chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

Information available to public.

“(b) The Panel shall monitor the development and execution of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

Report to President.

“GIFTS

“SEC. 409. The Secretary shall recommend acceptance of conditional gifts pursuant to section 501 for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of real property or the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

42 USC 286d.
42 USC 219.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 410. (a) For the purpose of carrying out this part (other than section 403), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30, 1976; $985,000,000 for the fiscal year ending September 30, 1977; $923,590,000 for the fiscal year ending September 30, 1978; $924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980.

42 USC 286e.

"(b) There are authorized to be appropriated to carry out section 403 $20,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; $53,500,000 for the fiscal year ending June 30, 1975; $68,500,000 for the fiscal year ending June 30, 1976; $88,500,000 for the fiscal year ending September 30, 1977; $84,560,000 for the fiscal year ending September 30, 1978; $90,500,000 for the fiscal year ending September 30, 1979; and $103,000,000 for the fiscal year ending September 30, 1980.

Contract authority. *Ante*, p. 3425.

"(c) The authority of the Secretary to enter into any contract for the conduct of a program under section 404(a)(7) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

42 USC 286b note.

(2) The change in the manner of appointing members of the National Cancer Advisory Board and in the composition of such Board prescribed by the amendment made by paragraph (1) shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendment.

(b) Part I of title IV is amended by adding at the end the following:

"APPROPRIATIONS

42 USC 289*l*-6.

"SEC. 477. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

41 USC 5.

"OTHER AUTHORITY

42 USC 289*l*-7.

"SEC. 478. This title shall not be construed as limiting (1) the functions or authority of the Secretary under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (2) the expenditure of money therefor.".

CONFORMING AMENDMENTS

42 USC 287d.

SEC. 242. (a) Section 415(b)(1) is amended by striking out "section 405" and inserting in lieu thereof "section 477".

42 USC 289*l*.

(b) Section 471 is amended by striking out "section 407(b)(9)" and inserting in lieu thereof "section 404(a)(8)".

PART D—NATIONAL RESEARCH SERVICE AWARDS

EXTENSION OF AUTHORIZATIONS

SEC. 251. (a) Subsection (d) of section 472 is amended by striking out "and" after "1977," and by inserting before the period at the end of the first sentence the following: ", $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, and $222,500,000 for the fiscal year ending September 30, 1981". 42 USC 289*l*-1.

(b) Subsection (d) of such section is amended (1) by striking out "25 per centum" in the second sentence and inserting in lieu thereof "15 per centum", and (2) by inserting before the period "and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards".

(c) Subsection (d) of such section is amended by adding at the end thereof the following new sentence: "In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.".

APPROVAL OF AWARDS

SEC. 252. Paragraph (2) of subsection (b) of such section is amended by striking out "The award of National Research Service Awards by the Secretary under subsection (a) and the making of grants for such Awards" and inserting in lieu thereof "The making of grants under subsection (a)(1)(B) for National Research Service Awards".

PERIOD OF AWARDS

SEC. 253. Paragraph (4) of subsection (b) of such section is amended to read as follows:

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual."

ADJUSTMENTS IN ALLOWANCES

SEC. 254. The first sentence of subsection (b)(5) of such section is amended by inserting after "dependency allowances)" the following: ", adjusted periodically to reflect increases in the cost of living".

SERVICE OBLIGATION

SEC. 255. (a) Subparagraph (B) of subsection (c)(1) of such section is amended (1) by inserting "or" in clause (i) after "Corps,", (2) by striking out clause (ii), and (3) by redesignating clause (iii) as clause (ii).

(b)(1) Paragraph (2) of subsection (c) of such section is amended to read as follows:

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of three months, such individual shall—

"(A) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(B) if authorized under paragraph (1)(B) or (1)(C), for one month serve in the individual's specialty or engage in a health-related activity."

(2) Paragraph (4)(A) of such subsection is amended by striking out

$$\text{“}A=\phi\left(\frac{t-\frac{1}{2}s}{t}\right)\text{”}$$

and inserting in lieu thereof

$$\text{“}A=\phi\left(\frac{t-s}{t}\right)\text{”.}$$

(3) Paragraph (5)(B) of such subsection amended by striking out "extreme hardship" and inserting in lieu thereof "substantial hardship".

42 USC 289*l*-1 note. 42 USC 289*l*-1. (b) The amendments made by subsection (a) shall apply only with respect to National Research Service Awards made under section 472 of the Public Health Service Act after the date of the enactment of this Act.

REPORTS ON STUDIES

42 USC 289*l*-2. SEC. 256. Section 473(c) is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "at least once every two years".

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

42 USC 241. SEC. 261. Effective October 1, 1978, section 301 is amended by adding after and below paragraph (h) the following: "The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate."

EXPANSION OF RESEARCH AND TESTING AUTHORITY

42 USC 241. SEC. 262. Effective October 1, 1978, section 301 (as amended by section 261 of this title) is amended (1) by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", (2) by striking out "Collect" in paragraph (a) and inserting in lieu thereof "collect", (3) by striking out "Make" in paragraphs (b), (c), and (f) and inserting in lieu thereof "make", (4) by striking out "Secure" in paragraph (d) and inserting in lieu thereof "secure", (5) by striking out "For" in paragraph (e) and inserting in lieu thereof "for", (6) by striking out "Enter" in paragraph (g) and inserting in lieu thereof "enter", (7) by striking out "Adopt" in paragraph (h) and inserting in lieu thereof "adopt", (8) by striking out "and" at the end of paragraph (f), (9) by redesignating paragraphs (a)

through (h) as paragraphs (1) through (8), respectively, and (10) by inserting "(a)" after "301." and by adding at the end the following:

Grants.

"(b)(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

Low-level ionizing radiation.

"(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

"(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

"(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of information respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health, Education, and Welfare and shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

Annual report, publication.

"(4) The Secretary shall publish an annual report which contains—

"(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

"(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

"(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

"(D) a description of (i) each request received during the year involved—

"(I) from a Federal agency outside the Department of Health, Education, and Welfare for the Secretary, or

"(II) from an entity within the Department of Health, Education, and Welfare to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

Contract authority.

"(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or review, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

NEW ARTHRITIS CENTERS

42 USC 289c-6.

SEC. 263. Section 439(g) is amended by striking out the last sentence.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

42 USC 289*l*-4.

SEC. 264. Section 475(a) is amended (1) by inserting before ", shall by regulation" the following: "and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity)", (2) by inserting after "research" in paragraph (1) the following: "(including research under programs of such Division of Nursing)", and (3) by striking out "or the" in paragraph (2) and inserting in lieu thereof "the" and by inserting before the period in that paragraph a comma and the following: "or the Division of Nursing of the Health Resources Administration (or the successor to either such entity)".

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

Ante, p. 3432.

SEC. 265. Title IV is amended by inserting after section 478 (as added by section 241(b) of this title) the following new section:

"EXPERTS AND CONSULTANTS

42 USC 289*l*-8.

"SEC. 479. (a) The Director of the National Institutes of Health may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants who have scientific or professional qualifications, for the National Institutes of Health and for each of the research institutes (other than the National Cancer Institute and the National Heart, Lung, and Blood Institute).

Compensation.
42 USC 284, 287b.

"(b)(1) Experts and consultants whose services are obtained under subsection (a) or under section 404(b)(1) or 413(c)(1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under this subsection, unless and until the expert or consultant agrees in writing to complete the entire period of his assignment or 1 year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for these expenses is recoverable from him as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under this subsection with respect to an expert or consultant on assignment with the Secretary.".

PUBLIC HEALTH SERVICE HOSPITALS

SEC. 266. Section 321(a) is amended by striking out ", and tobacco". 42 USC 248.

EXTENSION OF DEADLINE FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

SEC. 267. Section 301(i)(1) of the Arthritis, Diabetes, and Digestive Disease Amendments of 1976 (Public Law 94-562) is amended by striking out "Within eighteen months following its initial meeting (as prescribed by subsection (d))," and inserting in lieu thereof "Not later than February 1, 1979,". 42 USC 289a note.

PROGRAMS FOR FAMILIES OF ALCOHOLICS AND ALCOHOL ABUSERS

SEC. 268. (a) Section 2(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended— 42 USC 4541.

(1) by striking out "and" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) alcohol abuse and alcoholism have a substantial impact on the families of alcohol abusers and alcoholics; and".

(b) Section 303(a)(4)(B) of such Act is amended by inserting "and for education, counseling, and treatment of the families of alcoholic abusers and alcoholics" after "under the age of eighteen". 42 USC 4573.

(c) Section 501(a) of such Act is amended— 42 USC 4585.

(1) by striking out "of" each place it appears in paragraphs (1) through (4) and inserting "of" before "alcohol abuse and alcoholism";

(2) by striking out "and" at the end of paragraph (3) and inserting "and" after the comma at the end of paragraph (4); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) the impact on families,".

(d) Section 501(b)(5) of such Act is amended by inserting "or those of their families" after "individuals suffering from alcoholism or alcohol abuse".

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 301. The Public Health Service Act is amended by adding after title XVII the following new title:

"TITLE XVIII—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

"ESTABLISHMENT OF COMMISSION

42 USC 300v.

"SEC. 1801. (a) ESTABLISHMENT.—(1) There is established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (hereinafter in this title referred to as the 'Commission') which shall be composed of eleven members appointed by the President. The members of the Commission shall be appointed as follows:

"(A) Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research.

"(B) Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care.

"(C) Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

"(3) No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

"(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) four shall be appointed for terms of three years, and

"(B) three shall be appointed for terms of two years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, from members of the Commission.

"(d) MEETINGS.—(1) Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

"(2) The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

"(e) COMPENSATION.—(1) Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

5 USC 5332 note.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COMMISSION

42 USC 300v-1.

"SEC. 1802. (a) STUDIES.—(1) The Commission shall undertake studies of the ethical and legal implications of—

"(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

"(B) the matter of defining death, including the advisability of developing a uniform definition of death;

"(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

"(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

"(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information continued in such records, and

"(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by the Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

"(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this title on its own initiative or at the request of the head of a Federal agency.

"(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

Report to President and Congress.

"(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

Publication in Federal Register.

"(b) Recommendations to Agencies.—(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

"(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

Publication in Federal Register.

"(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

"(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

Report to President, Congress, and Federal agencies.

"(c) Report on Protection of Human Subjects.—The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

Report to President, Congress, and Federal agencies.

"(d) Annual Report.—Not later than December 15 of each year (beginning with 1979) the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations described in subsection (b)(1) made to Federal agencies by the Commission during the fiscal year and the actions taken, pursant to subsection (b)(2), by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(e) Publications.—The Commission may at any time publish and disseminate to the public reports respecting its activities.

"(b) Definitions.—For purposes of this section:

"(1) The term 'Federal agency' means an authority of the government of the United States, but does not include (A) the Congress, (B) the courts of the United States, and (C) the government of the Commonwealth of Puerto Rico, the government of the District of Columbia, or the government of any territory or possession of the United States.

"(2) The term 'protection of human subjects' includes the protection of the health, safety, and privacy of individuals.

"ADMINISTRATIVE PROVISIONS

Hearings.
42 USC 300v-2.

"Sec. 1803. (a) Hearings.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(b) Staff.—(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. 5 USC 5101 *et seq.*, 5331.

"(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule. 5 USC 5332 note.

"(3) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(c) Contracts.—The Commission, in performing its duties and functions under this title, may enter into contracts with appropriate public or nonprofit private entities. The authority of the Commission to enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) Information.—(1) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(2) The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this title.

"(3) The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) Support Services.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"AUTHORIZATION OF APPROPRIATIONS; TERMINATION OF COMMISSION

"Sec. 1804. (a) Authorizations.—To carry out this title there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982. 42 USC 300v-3.

"(b) Federal Advisory Committee Act; Termination.—The Commission shall be subject to the Federal Advisory Committee Act, except that, under section 14(a)(1)(B) of such Act, the Commission shall terminate on December 31, 1982.". 5 USC app.

MISCELLANEOUS PROVISIONS

42 USC 300v note.

SEC. 302. (a) The President shall initially appoint members to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (established under the amendment made by section 301) not later than 90 days after the date of the enactment of this title.

Repeal.
42 USC 289*l*-1 note.
42 USC 218.

(b) Effective November 1, 1978, part A of title II of the National Research Act, section 213 of such Act, and subsection (f) of section 217 of the Public Health Service Act are repealed.

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1192 accompanying H.R. 12347 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-838 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
  June 26, considered and passed Senate.
  Oct. 15, considered and passed House, amended; Senate concurred in House amendments.

Public Law 95-623
95th Congress

An Act

To amend the Public Health Service Act to revise and extend the authorities under that Act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes.

Nov. 9, 1978
[S. 2466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Services Research, Health Statistics, and Health Care Technology Act of 1978.
42 USC 201 note.

SHORT TITLE, REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics, and Health Care Technology Act of 1978".

(b) Whenever in this Act (other than in sections 12 and 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

42 USC 201 note.

EXTENSION OF AUTHORIZATIONS

42 USC 242m.

SEC. 2. (a) Section 308(i)(1) is amended—

(1) in the first sentence (A) by striking out "and" after "1976,", and (B) by inserting before the period a comma and the following: "$35,000,000 for the fiscal year ending September 30, 1979, $40,000,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981"; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "At least 20 per centum of the amount appropriated under the preceding sentence for any fiscal year or $6,000,000, whichever is less, shall be available only for health services research, evaluation and demonstration activities directly undertaken through the National Center for Health Services Research, and at least 5 per centum of such amount or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken through such Center.".

(b) Section 308(i)(2) is amended (1) by inserting "and epidemiological" after "statistical", (2) by striking out "and" after "1976,", and (3) by inserting before the period a comma and the following: "$50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $70,000,000 for the fiscal year ending September 30, 1981".

GENERAL AUTHORITY

SEC. 3. (a) Subsection (a) of section 304 is amended to read as follows:

42 USC 242b.

"(a)(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of health care technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis,

"(H) the prevention of illness, disability, and premature deaths in the United States,

"(I) health care costs, increases in such costs, and the reasons for such increases, and

"(J) the impact of the environment on individual health and on health care.

Training programs.

"(3) The Secretary shall, through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology and using National Research Service Awards and other appropriate authorities, undertake and support training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in sections 305, 306, and 309.".

42 USC 242c, 242k.
***Post,* p. 3447.**
42 USC 242b.

(b) Paragraph (1) of section 304(b) is amended (1) by inserting ", when appropriate," before "enter into contracts", and (2) by striking out all after "entities and individuals" the second time it appears and inserting in lieu thereof a period.

(c) Subsection (c) of section 304 is amended to read as follows:

"(c)(1) The Secretary shall coordinate all health services research, evaluations, and demonstrations, all health statistical and epidemiological activities, and all research, evaluations, and demonstrations respecting the assessment of health care technology undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.

"(2) The Secretary shall coordinate the health services research, evaluations, and demonstrations, the health statistical and (where appropriate) epidemiological activities, and the research, evaluations, and demonstrations respecting the assessment of health care technology authorized by this Act through the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology.".

(d) Section 304(d)(3) is amended (1) by striking out "experts and", (2) by inserting "but in accordance with section 3109 of title 5, United States Code" after "advisable", and (3) by adding at the end the following: "The Secretary may for the purpose of carrying out the functions set forth in sections 305, 306, and 309, obtain (in accordance with section 3109 of title 5 of the United States Code, but without regard to the limitation in such section on the number of days or the period of service) for each of the centers the services of not more than fifteen experts who have appropriate scientific or professional qualifications.".

42 USC 242c, 242k.
Post, p. 3447.

(e) The heading for section 304 is amended to read as follows:

42 USC 242b.

"GENERAL AUTHORITY RESPECTING RESEARCH, EVALUATIONS, AND DEMONSTRATIONS IN HEALTH STATISTICS, HEALTH SERVICES AND HEALTH CARE TECHNOLOGY".

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH

SEC. 4. Subsection (b) of section 305 is amended—

(1) by striking out "may undertake and support" and inserting in lieu thereof "shall undertake and support";

(2) by striking out "construction," in paragraph (3);

(3) striking "and" at the end of paragraph (2);

(4) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(5) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 5. (a) Subsection (b) of section 306 is amended (1) by striking out "may", (2) by inserting "shall" after "(1)" and after "(2)", (3) by striking out "and" at the end of paragraph (1), (4) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon, and (5) by adding after paragraph (2) the following:

"(3) may undertake and support (by grant or contract) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1); and

"(4) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit private entities under arrangements under which the entities will pay the cost of the service provided.

Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (4) shall be available to the Secretary for obligation until expended.".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c)(1) Subsection (e) of section 306 is amended to read as follows:

"(e) For the purpose of producing comparable and uniform health information and statistics, there is established the Cooperative Health Statistics System. The Secretary, acting through the Center, shall—

"(1) coordinate the activities of Federal agencies involved in the design and implementation of the System;

Cooperative Health Statistics System, establishment.

"(2) undertake and support (by grant or contract) research, development, demonstrations, and evaluations respecting the System;

"(3) make grants to and enter into contracts with State and local health agencies to assist them in meeting the costs of data collection carried out under the System; and

"(4) review the statistical activities of the Department of Health, Education, and Welfare to assure that they are consistent with the System.

States participating in the System shall designate a State agency to administer or be responsible for the administration of the statistical activities within the State under the System. The Secretary, acting through the Center, shall prescribe guidelines to assure that statistical activities within States participating in the system produce uniform and timely data and assure appropriate access to such data.".

42 USC 242k. (2) Paragraph (4)(D) of subsection (i) of section 306 is amended by inserting before the semicolon the following: ", with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1)".

(d) The first sentence of subsection (f) of section 306 is amended by inserting ", acting through the Center," after "the Secretary".

(e)(1) Section 306(i)(1) is amended by striking out "United States".

(2) Paragraph (2)(A) of section 306(i) is amended by inserting "health planning," after "health statistics,".

(f) Section 306 is amended by redesignating subsection (i) as subsection (k) and by inserting after subsection (h) the following new subsections:

"(i) The Center may provide to public and nonprofit private entities engaged in health planning activities technical assistance in the effective use in such activities of statistics collected or compiled by the Center.

42 USC 242b. "(j) In carrying out the requirements of section 304(c) and paragraph (1) of subsection (e) of this section, the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) establishing standardized means for the collection of health information and statistics under laws administered by the Secretary;

"(2) developing, in consultation with the National Committee on Vital and Health Statistics, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1);

"(3) after consultation with the National Committee on Vital and Health Statistics, establishing standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis;

"(4) in the case of proposed health data collections of the Department which are required to be reviewed by the Director of the Office of Management and Budget under section 3509 of title 44, United States Code, reviewing such proposed collections to determine whether they conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3), and if any such proposed collection is found not to be in conformance, by taking such action as may be necessary to assure that it will conform to such sets of data and standards, and

"(5) periodically reviewing ongoing health data collections of the Department, subject to review under such section 3509, to determine if the collections are being conducted in accordance with the minimum sets of data and the standards promulgated pursuant to paragraphs (2) and (3) and, if any such collection is found not to be in conformance, by taking such action as may be necessary to assure that the collection will conform to such sets of data and standards not later than the ninetieth day after the date of the completion of the review of the collection.".

NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

SEC. 6. (a) Section 309 is amended—

(1) by amending the section heading to read as follows: 42 USC 242n.

"HEALTH CONFERENCES AND HEALTH EDUCATION INFORMATION";

(2) by inserting "(a)" before "A conference"; and

(3) by striking out "309" and inserting in lieu thereof "310".

(b) Section 310 (as in effect before the date of the enactment of this Act) is amended— 42 USC 242o.

(1) by striking out the section heading; and

(2) by striking out "SEC. 310." and inserting in lieu thereof "(b)".

(c) Part A of title III is amended by adding after section 308 the following new section:

"NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY; NATIONAL COUNCIL ON HEALTH CARE TECHNOLOGY

Establishment. 42 USC 242n.

"SEC. 309. (a) There is established in the Department of Health, Education, and Welfare the National Center for Health Care Technology (hereinafter in this section referred to as the 'Center') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

Grants and contracts.

"(b)(1) The Secretary, acting through the Center, shall undertake and support (by grant or contract) assessments of health care technology. Such assessments shall take into account the safety, effectiveness, and cost effectiveness of, and the social, ethical, and economic impact of health care technologies.

"(2) The Secretary, acting through the Center, shall encourage, undertake, and support (by grant or contract) research, demonstrations, and evaluations respecting—

"(A) the factors that affect the use of health care technologies in the United States;

"(B) methods for disseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(3) The Secretary, acting through the Center, shall encourage and support (by grant or contract) research, evaluations, and demonstrations respecting the safety and efficacy of particular health care technologies.

"(4) The Secretary, acting through the Center and in consultation with the National Council on Health Care Technology, shall establish priorities for the activities prescribed by paragraphs (1), (2), and (3). In determining if an activity respecting a particular health care technology should be given priority, emphasis shall be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the technology,

"(B) the actual or potential cost of the technology,

"(C) the actual or potential rate of its use, and

"(D) the stage of development of the technology.

"(5) The Center may make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

Grants and contracts.

"(c)(1) The Secretary, acting through the Center, shall, by grant or contract, assist public and private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers, for assessments, multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraphs (1) and (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

42 USC 242m.

Limitations.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Center, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

Requirements.

"(B) Each center shall meet the following requirements:

"(i) There shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in assessments, research, demonstrations, and evaluations respecting the matters referred to in paragraphs (1) and (2) of subsection (b), and there shall be such additional professional staff as may be appropriate.

"(ii) The staff of the center shall have expertise in the various disciplines needed to conduct assessments, multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraphs (1) and (2) of subsection (b).

"(iii) The center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center.

"(iv) Each center shall meet such additional requirements as the Secretary may by regulation prescribe.

Review requirements for certain grants and contracts.

"(d) Any grant or contract under subsection (b) or (c), the direct cost of which will exceed $35,000, may be made or entered into only after appropriate review for scientific merit by peer review groups composed of experts in the relevant fields and only after the National Council on Health Care Technology has had an opportunity to review the project with respect to which the grant or contract is to be made or entered into.

"(e) To assist in carrying out this section, the Secretary, acting through the Center, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration, and any other interested Federal departments or agencies and with State and local health departments and agencies.

National Council on Health Care Technology. Establishment.

"(f) (1) There is established the National Council on Health Care Technology (hereinafter in this subsection referred to as the 'Council'). The Council shall—

"(A) advise the Secretary and the Director of the Center with respect to the performance of the functions prescribed by this section;

"(B) review applications for grants and contracts under this section in excess of $35,000 and provide the Secretary its recommendation respecting the approval of such applications;

"(C) after consultation with appropriate public and private entities, advise the Secretary respecting the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular health care technologies;

"(D) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable. exemplary standards, norms, and criteria concerning the use of particular health care technologies; and

"(E) promptly publish, disseminate, and otherwise make available, through the National Library of Medicine, standards, norms, and criteria developed under subparagraph (D).

Membership.

"(2) The Council shall consist of—

"(A) the Director of the National Institutes of Health, the Chief Medical Officer of the Veterans' Administration, the Assistant Secretary for Health and Environment of the Department of Defense, the Chairman of the National Professional Standards Review Council, a member of the National Council on Health Planning and Development (established under section 1503), the Director of the Office of Science and Technology Policy, the head of the Food and Drug Administration (or the successor to such entity), the head of the Center for Disease Control (or the successor to such entity), and the head of the Health Care Financing Administration (or the successor to such entity) who (or their designees) shall be ex officio members, and

42 USC 300k-3.

"(B) eighteen members appointed by the Secretary.

The Secretary shall make his initial appointments to the Council within one hundred and twenty days of the date of the enactment of this section. Six of the appointed members shall be selected from individuals who are distinguished in the fields of medicine, engineering, or science (including social science). Of such six members, at least two shall be selected from individuals who are representatives of business entities engaged in the development or production of health care technology. Two of the appointed members shall be physicians, two of the appointed members shall be selected from individuals who are hospital administrators, two of the appointed members shall be selected from individuals who are distinguished in the field of economics, two of the appointed members shall be selected from individuals who are distinguished in the field of law, one of the appointed members shall be selected from individuals who are distinguished in the field of ethics, and three of the appointed members shall be selected from members of the general public who represent the interests of consumers of health care.

Council members, terms of office.

"(3) (A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the date of the enactment of this section, four shall be appointed for a term of four years, four shall be appointed for a term of three years, four shall be appointed for a term of two years, and four shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

Compensation.

"(B) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

5 USC 5332 note.

"(4) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Director of the Center shall (1) designate a member of the staff of the Center to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(7) The Council shall be subject to the Federal Advisory Committee Act, except that the Council shall terminate September 30, 1981.

"(g) The Director of the National Institutes of Health, the head of the Food and Drug Administration (or the successor to such entity), the head of the Center for Disease Control (or the successor to such entity), the head of the Health Care Financing Administration (or the successor to such entity), and the head of any other entity of the Department of Health, Education, and Welfare designated by the Secretary shall each make available annually to the Center and the Council a listing of all health care technologies of which he is aware that are under development and appear likely to be used in the practice of medicine.

"Health care technology."

"(h) For purposes of this section, the term 'health care technology' means any discrete and identifiable regimen or modality used to diagnose and treat illness, prevent disease, maintain patient well-being, or facilitate the provision of health care services.

Appropriation authorization.

"(i) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending September 30, 1979,

$25,000,000 for the fiscal year ending September 30, 1980, and $33,000,000 for the fiscal year ending September 30, 1981. Not less than 15 per centum of the amount appropriated for the fiscal year ending September 30, 1981, shall be obligated for assessments, research, demonstrations, and evaluations directly undertaken through the Center under paragraph (1) or (2) of subsection (b).".

(d)(1) Subsection (a)(1) of section 308 is amended (A) by inserting "and section 309" after "307", and (B) by striking out "health statistics" and inserting in lieu thereof ", health statistics, and health care technology". 42 USC 242m.

(2) Subsection (b)(1) of such section is amended by striking out "or 307" and inserting in lieu thereof "307, or 309".

(3) Subsection (d) of such section is amended (A) by striking out "or 307" and inserting in lieu thereof "307, or 309", and (B) by inserting "or epidemiological" after "statistical" in clause (1).

(4) Subsection (e) of such section is amended by striking out "or 307" each place it occurs and inserting in lieu thereof "307, or 309".

(5) Subsection (f) of such section is amended by striking out "or 306" and inserting in lieu thereof "306, or 309".

(6) Subsection (g)(2) of such section is amended by striking out "and 306" and inserting in lieu thereof "306, and 309".

(7) Subsection (h)(1) of such section is amended by striking out "or 306" each place it occurs and inserting in lieu thereof "306, or 309".

(8) The heading for such section is amended by striking out "AND 307" and inserting in lieu thereof "307, AND 309".

STUDY OF COSTS OF DISEASES AND ADVERSE EFFECTS ON HUMANS WHICH ARE ENVIRONMENTALLY RELATED

SEC. 7. Section 304 (as amended by section 3(d)) is amended by adding at the end the following: 42 USC 242b.

"(e)(1) The Secretary and the National Academy of Sciences (acting through the Institute of Medicine and other appropriate units) shall, jointly and in cooperation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council of Economic Advisers, the Council on Wage and Price Stability, the Council on Environmental Quality, and other entities of the Federal Government which the Secretary determines have the expertise in the subject of the study prescribed by this paragraph, conduct, with funds appropriated under section 308(i)(2), an ongoing study of the present and projected future health costs of pollution and other environmental conditions resulting from human activity (including human activity in any place in the indoor or outdoor environment, including places of employment and residence). In conducting the study, the Secretary and the National Academy of Sciences (hereinafter in this subsection referred to as the 'Academy') shall, to the extent feasible—

"(A) identify the pollution (and the pollutants responsible for the pollution) and other environmental conditions which are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating human diseases and adverse effects on humans;

"(B) identify each such disease and adverse effect on humans and specifically determine whether cancer, birth defects, genetic damage, emphysema, asthma, bronchitis, and other respiratory diseases, heart disease, stroke, and mental illness and impairment are such a disease or effect;

"(C) identify (on a national, regional, or other geographical basis) the source or sources of such pollutants and conditions and estimate the portion of each pollutant and the extent of each condition which can be traced to a specific type of source;

"(D) ascertain (i) the extent to which the pollutants and conditions identified under subparagraph (A) are, or may reasonably be anticipated to be, responsible, individually or collectively, for causing, contributing to, increasing susceptibility to, or aggravating the diseases and effects identified under subparagraph (B), and (ii) the effect upon the incidence or severity of specific diseases and effects of individual or collective, as appropriate, incremental reductions in the pollutants and changes in such conditions; and

"(E) quantify (i) the present and projected future health costs of the diseases and effects identified under subparagraph (B), and (ii) the reduction in health costs which would result from each incremental reduction and change referred to in subparagraph (D)(ii).

"(2) The Secretary shall enter into appropriate arrangements with the Academy under which the Secretary shall be responsible for expenses incurred by the Academy in connection with the study prescribed by paragraph (1).

Reports to congressional committees.

"(3) The first report on the study prescribed by paragraph (1) shall be made to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives by the Secretary and the Academy not later than eighteen months after the date of the enactment of this subsection. Subsequent reports on the study shall be made by the Secretary and the Academy every two years after the date the first report is submitted. Each report shall (A) identify deficiencies and limitations in the data on the matters considered in the study and recommend actions which may be taken to eliminate such deficiencies and limitations, (B) include such recommendations for legislation as the Secretary determines appropriate, (C) include recommendations for facilitating studies of the effects of hazardous substances on humans, and (D) include a description of any administrative action proposed to be taken by the Secretary, the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Consumer Product Safety Commission to reduce the costs which have been quantified under paragraph (1)(E)(i). In conducting the study, the Secretary and the Academy shall seek assistance from public and private health financing entities in securing the data needed for the study.

"Health costs of pollution and other environmental conditions."

"(4) For purposes of paragraph (1), the term 'health costs of pollution and other environmental conditions' means the costs of human diseases and other adverse effects on humans which pollution and other environmental conditions are, or may reasonably be anticipated to be, responsible for causing, contributing to, increasing susceptibility to, or aggravating, including the costs of preventing such diseases and effects, the costs of the treatment, cure, convalescence, and rehabilitation of persons afflicted by such diseases, costs reasonably attributable to pain and suffering from such diseases and effects, loss of income and future earnings resulting from such diseases and effects, adverse effects on productivity (and thus increases in production costs and consumer prices) resulting from such diseases and effects, loss of tax revenues resulting from such decreases in earnings and productivity, costs to the welfare and unemployment compensation systems and the programs of health benefits under titles XVIII and XIX of the Social Security Act resulting from such diseases and effects, the overall increases in costs throughout the economy resulting from such diseases and effects, and other related direct and indirect costs.". 42 USC 1395, 1396.

INFORMATION ON EFFECTS ON HEALTH OF THE ENVIRONMENT AND EMPLOYMENT CONDITIONS

SEC. 8. (a) Section 306 (as amended by section 5) is amended by inserting after subsection (k) the following new subsection: 42 USC 242k.

"(l) (1) The Secretary, acting through the Center, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The Secretary shall submit such plan to the Congress not later than January 1, 1980. Plan. Submittal to Congress.

"(2) (A) The Secretary, acting through the Center, shall establish, not later than two years after the date of the enactment of this subsection, guidelines for the collection, compilation, analysis, publication, and distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health. Guidelines established under this subparagraph shall not (i) authorize or require the disclosure of any matter described in section 552(b) (6) of title 5, United States Code, and (ii) authorize or require the disclosure of any statistics or other information which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section. The guidelines shall be reviewed and, if appropriate, revised at least every three years after the date they are initially established. Guidelines shall take effect on the date of the promulgation of the regulation establishing or revising the guidelines or such later date as may be specified in the guidelines. Guidelines.

"(B) The guidelines shall be designed—

"(i) to improve coordination of environmental and health studies, statistics, and information, and to prevent overlap and unnecessary duplication with respect to such studies, statistics, and information;

"(ii) to assure that such studies, statistics, and information will be available to executive departments responsible for the administration of laws relating to the protection of the public health and safety or the environment;

"(iii) to encourage the more effective use by executive departments of such studies, statistics, and information;

"(iv) to improve the statistical validity and reliability of such studies, statistics, and information; and "(v) to assure greater responsiveness by the Department of Health, Education, and Welfare and other executive departments in meeting informational and analytical needs for determining the effects of employment and indoor and outdoor environmental conditions on public health.

"(C) In establishing and revising guidelines under subparagraph (A), the Secretary shall take into consideration the plan developed pursuant to paragraph (1).

"(D) The Center shall serve as a clearinghouse for statistics and information with respect to which guidelines have been established under subparagraph (A) and shall assist executive departments in obtaining such statistics and information for purposes of administering laws under their jurisdiction relating to environmental health protection or the safety and health of employees.

Guidelines, compliance.

"(E)(i) Each executive department shall comply with the substantive and procedural requirements of the guidelines.

"(ii) The President shall by Executive order require each executive department to comply with requests, made in accordance with the guidelines, by the Secretary, the Administrator of the Environmental Protection Agency, the Consumer Product Safety Commission, or the Secretary of Labor for statistics and information.

Exemptions.

"(iii) The President may by Executive order exempt any executive department from compliance with a requirement of the guidelines respecting specific statistics or other information if the President determines that the exemption is necessary in the interest of national security.

"(F) In carrying out his duties under this paragraph, the Secretary, acting through the Center, shall, insofar as practicable, provide for coordination of his activities with those of other Federal agencies and interagency task forces relating to the collection, analysis, publication, or distribution of statistics and information necessary for determining the effects of conditions of employment and indoor and outdoor environmental conditions on the public health.

"Guidelines."

"(G) For purposes of this paragraph, the term 'guidelines' means the guidelines, either as initially established or as revised, in effect under this paragraph.

Study.

"(3) The Secretary, acting through the Center, shall conduct a study of the issues respecting, and the recommendations for, establishing a Federal system to assist, in a manner designed to avoid invasion of personal privacy, Federal, State, and other entities in locating individuals who have been or many have been exposed to hazardous substances to determine the effect on their health of such exposure and to assist them in obtaining appropriate medical care and treatment. In conducting such study, the Secretary may consult with any public and private entity which it determines has expertise on any matter to be considered in the study. Not later than one year after the date of the enactment of this subsection, the Secretary shall complete the study and report to the Congress the results of the study and any recommendations for legislation or administrative action.

Report to Congress.

"(4) In carrying out paragraphs (1), (2), and (3), the Secretary shall consult with and take into consideration any recommendations of the Task Force on Environmental Cancer and Heart and Lung

Disease, the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Consumer Product Safety Commission, the Council on Environmental Quality, the National Committee on Vital and Health Statistics, and the National Academy of Sciences (including the Institute of Medicine and any other unit of the Academy).".

(b) The first sentence of subsection (d) of section 308 is amended by inserting after "unless authorized" the following: "by guidelines in effect under section 306(l)(2) or".

42 USC 242m.
42 USC 242k.

TASK FORCE ON ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

SEC. 9. The Director of the National Center for Health Statistics and the head of the Center for Disease Control (or the successor to such entity) shall each serve as members of the Task Force on Environmental Cancer and Heart and Lung Disease established under section 402 of Public Law 95–95.

42 USC 4362a.
42 USC 4362.

MINE WORKERS STUDY

SEC. 10. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the Secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Ways and Means, the Committee on Appropriations, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation, and demonstration activities by section 308(i)(1) of the Public Health Service Act shall be made available for such study.

42 USC 242m note.
Report to congressional committees.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 11. (a) Subsection (g) of section 208 is amended (1) by striking out "one hundred and fifty-five" and inserting in lieu thereof "one hundred and seventy-nine", (2) by striking out "and not less than" and inserting in lieu thereof ", not less than", and (3) by inserting after "alcoholism," the following: "not less than ten shall be for the National Center for Health Services Research, not less than twelve shall be for the National Center for Health Statistics, and not less than seven shall be for the National Center for Health Care Technology,".

42 USC 210.

(b) Part K of title III is repealed.

Repeal.
42 USC 280c.

(c) Section 453 is amended by adding at the end the following: "The Secretary, through the Institute, may, effective October 1, 1978, and without regard to section 405, carry out a program of grants for public and nonprofit private vision research facilities.".

42 USC 289k.
42 USC 285.

(d)(1) Section 472(a)(1)(A) is amended—

42 USC 289*l*–1.

(A) by striking out "and" at the end of clause (iii),
(B) by redesignating clause (iv) as clause (vii),
(C) by inserting after clause (iii) the following:

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology,

"(v) training at such Centers to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and", and

(D) by striking out "such research" in clause (vii) (as so redesignated) and inserting in lieu thereof "biomedical and behavioral research and the research described in clause (vi)".

42 USC 289l-1. (2) Section 472(a)(1)(B) is amended by striking out "such research" and inserting in lieu thereof "biomedical and behavioral research and the research described in subparagraph (A)(vi)".

42 USC 219. (e) Title V is amended by adding at the end the following:

"CONTRACT AUTHORITY

42 USC 229c. "SEC. 514. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Record maintenance. 42 USC 292e. (f)(1) The second sentence of subsection (a) of section 705 is amended to read as follows: "Such records shall include records which fully disclose (A) the amount and disposition by such entity of the funds paid to it under such grant, loan, loan guarantee, interest subsidy, or contract, (B) the total cost of the project or undertaking for which such grant, loan, loan guarantee, interest subsidy, or contract is made, (C) the amount of that portion of the cost of the project or undertaking received by or allocated to such entity from other sources, and (D) such other records as will facilitate an audit conducted in accordance with generally accepted auditing standards.".

Biennial financial audit. (2) Subsection (b) of section 705 is amended to read as follows:

"(b) Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require.".

Waiver. 42 USC 295f-1. (g) Section 771(d) is amended by adding at the end the following:

"(5) The Secretary may waive (in whole or in part) application to a school of dentistry of the requirement of any paragraph of this subsection if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.".

HEALTH PROFESSIONS REPORTS AND PROGRAMS

SEC. 12. (a) Section 708(d) of the Public Health Service Act is amended (1) by striking out "not later than September 1 of each year", and (2) by inserting at the end the following: "Such report shall be submitted biennially, and the first such report shall be due not later than October 1, 1979.". 42 USC 292h.

(b) Section 709(b) of such Act is amended by striking out "January 1, 1979" and inserting in lieu thereof "February 1, 1980". 42 USC 292i.

(c) Section 751(i) of such Act is amended by striking out "December" and inserting in lieu thereof "March". 42 USC 294t.

(d) Section 771(b)(2)(B) of such Act is amended by striking out "45 days after the date for which the determination is made" and inserting in lieu thereof "the first December 31 occurring after the date for which the determination is made". 42 USC 295f-1.

(e) Section 782(c) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "March 1, 1980". 42 USC 295g-2.

(f) Section 788(b)(6) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "October 1, 1979". 42 USC 295g-8.

(g) Section 793(c) of such Act is amended (1) by striking out "annually" and inserting in lieu thereof "biennially", and (2) by striking out "December 1, 1978" and inserting in lieu thereof "October 1, 1979". 42 USC 295h-2.

(h) Section 951(b) of the Nurse Training Act of 1975 is amended by striking out "Not later than February 1, 1977, and February 1 of each succeeding year" and inserting in lieu thereof "Not later than October 1, 1979, and October 1 of each odd-numbered year thereafter". 42 USC 296 note.

(i)(1) Section 702(d) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "not later than two years after the date of enactment of this Act" and inserting in lieu thereof "not later than October 1, 1979". 42 USC 295h-4 note.

(2) Section 903(a)(2) of the Health Professions Educational Assistance Act of 1976 is amended by striking out "January 1, 1979" and inserting in lieu thereof "April 1, 1979". 42 USC 292h note.

(j) Section 772(e) of the Public Health Service Act is amended by inserting before the period a comma and the following: "except that a student who, for other than academic reasons, withdraws from a year class before the end of an academic year or does not complete an academic year shall not be considered as having been enrolled in a year class in that academic year". 42 USC 295f-2.

MISCELLANEOUS

SEC. 13. (a)(1) Section 111(h) (42 U.S.C. 7411) of the Act of July 14, 1955, as amended by Public Law 95-95, is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as a standard of performance for purposes of the provisions of this Act (other than the provisions of subsection (a) and this subsection).".

(2) Subsections (d)(1)(A) and (g)(4)(B) of such section are each amended by striking out "under subsection (b)" and inserting in lieu thereof "under this section".

(3) Subsection (j) of such section is amended by striking out "subsection (b) of" in paragraphs (1)(A) and (2)(A) thereof.

(b) Section 112(e) of such Act (42 U.S.C. 7412) is amended by adding the following at the end thereof:

"(5) Any design, equipment, work practice, or operational standard, or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection)."

(c) Section 117(c)(3) of such Act (42 U.S.C. 7417) is amended by striking out "(b)(1)(B)" in each place it appears.

(d) Section 317(a)(1) of such Act (42 U.S.C. 7617) is amended by striking out "(b)".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1190 accompanying H.R. 12584 (Comm. on Interstate and Foreign Commerce) and No. 95-1783 (Comm. of Conference).

SENATE REPORT No. 95-839 (Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 26, considered and failed of passage in Senate.

Aug. 9, considered and passed Senate.

Sept. 25, H.R. 12584 considered and passed House; passage vacated, and S. 2466, amended, passed in lieu.

Oct. 13, House agreed to conference report.

Oct. 15, Senate agreed to conference report.

Public Law 95-624
95th Congress

An Act

To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

Nov. 9, 1978
[S. 3151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

Department of Justice Appropriation Authorization Act, Fiscal Year 1979.

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, including hire of passenger motor vehicles and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration: $28,966,000.

(2) For General Legal Activities, including miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529): $95,481,000.

(3) For the Antitrust Division: $47,080,000.

(4) For United States Attorneys and Marshals, including purchase of firearms and ammunition; lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; supervision of United States prisoners in non-Federal institutions; and bringing to the United States from foreign countries persons charged with crime: $221,736,000.

(5) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys except that no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one day: $20,144,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): $25,100,000.

(7) For the Community Relations Service: $5,353,000.

(8) For the Federal Bureau of Investigation for expenses necessary for the detection and prosecution of crimes against the

United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate: $561,341,000.

(9) For the Immigration and Naturalization Service, for payment of expenses not otherwise provided for, necessary for the administration of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment of rewards; not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition and attendance at firearms matches; operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto; refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement which shall remain available until expended: $320,722,000, of which $2,052,000 shall be made available for the

investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Drug Enforcement Administration to hire and acquire law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; pay in advance for special tests and studies by contract; pay in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; pay expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; pay rewards; pay for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment; pay for necessary accommodations in the District of Columbia for conferences and training activities; acquire, lease, maintain, and operate aircraft; research related to enforcement and drug control to remain available until expended; employ aliens by contract for services abroad; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11) and 22 U.S.C. 1157), under regulations prescribed by the Secretary of State, such sums as authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904 (a)), for the fiscal year ending September 30, 1979, for the activities authorized by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

21 USC 873.

21 USC 801 note.

(11) For the Federal Prison System, $362,662,000, including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions; making such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for Federal Prison Industries, Incorporated;

42 USC 250a.

31 USC 849.

(B) for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which establish a National Institute of Corrections, to remain available until expended; and

(C) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended.

Appropriated sums, unauthorized use.

SEC. 3. (a) None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of the Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(c) None of the additional sums authorized to be appropriated by this Act for criminal investigations and management direction shall be reprogramed to the Domestic Terrorism Intelligence Program.

Appropriated sums, authorized use.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated in official government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) The labor of United States prisoners may be used for work performed with sums authorized to be appropriated by section 2(11)(C).

(e) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(f) Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(g) There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 5. Section 1001(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000g) is amended by striking out the last sentence.

Evaluations.

SEC. 6. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

Notification of congressional committees.

SEC. 7. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of fifteen days prior to—

(1) reprograming of funds in excess of $150,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprograming of funds in excess of $500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 8. Section 4002 of title 18, United States Code, is amended by striking out "Director of the Bureau of Prisons" and inserting "Attorney General" in lieu thereof.

18 USC 4001 note.

SEC. 9. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

18 USC 4121 note.

SEC. 10. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

McNeil Island Penitentiary, closure.

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

(2) a report on the status of the Federal Prison Industries.

Employment and training for prisoners.

(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 11. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 12. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated $1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

Report to Congress.
28 USC 519 note.

SEC. 13. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

SEC. 14. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime reports classify arson as a Part I offense.

SEC. 15. No part of any sums authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

8 USC 1255 note.

SEC. 16. The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

28 USC 519 note.

SEC. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than October 1, 1979.

SEC. 18. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732 (a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

18 USC 351 note.

SEC. 19. The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.

SEC. 20. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention center. Such center shall be capable of accommodating not less than five hundred Federal detainees.

(b) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated $2,600,000 for planning and site acquisition for the fiscal year ending September 30, 1979, to carry out this section.

22 USC 263a.

SEC. 21. (a) The Act entitled "An Act to authorize membership on behalf of the United States in the International Criminal Police Commission, approved June 10, 1938 (52 Stat. 640; 22 U.S.C. 236a), is amended by striking out the last two sentences and inserting in lieu thereof the following: "All dues and expenses to be paid for the membership of the United States shall be paid out of sums authorized and appropriated for the Department of Justice.".

(b) The Attorney General is authorized to pay to the International Criminal Police organization the unpaid balance of the dues for calendar years prior to 1978 and such sums as may be necessary are authorized to be appropriated to carry out the provisions of this subsection.

SEC. 22. Section 5108(c)(8) of title 5, United States Code, is amended by striking out "32" and inserting in lieu thereof "45".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1148 accompanying H.R. 12005 (Comm. on the Judiciary) and Pt. 2 (Permanent Select Comm. on Intelligence); No. 95-1777 (Comm. of Conference).

SENATE REPORT No. 95-911 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 10, considered and passed Senate.

Sept. 26, H.R. 12005 considered in House.

Sept. 28, H.R. 12005 considered and passed House; proceedings vacated and S. 3151, amended, passed in lieu.

Oct. 13, Senate agreed to conference report.

Oct. 14, House agreed to conference report.

Public Law 95-625
95th Congress

An Act

To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

Nov. 10, 1978
[S. 791]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks and Recreation Act of 1978.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

16 USC 1 note.

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DEFINITION

SEC. 2. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

Effective date.

SEC. 3. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1978. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE I—DEVELOPMENT CEILING INCREASES

SPECIFIC INCREASES

Appropriation authorizations.

SEC. 101. The limitations on funds for development within certain units of the National Park System and affiliated areas are amended as follows:

16 USC 431 note.

(1) Agate Fossil Beds National Monument, Nebraska: Section 4 of the Act of June 5, 1965 (79 Stat. 123), is amended by changing "$1,842,000" to "$2,012,000".

(2) Andersonville National Historic Site, Georgia: Section 4 of the Act of October 16, 1970 (84 Stat. 989), is amended by changing "$1,605,000" to "$2,205,000 for development.", and by deleting "(March 1969 prices), for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(3) Andrew Johnson National Historic Site, Tennessee: Section 3 of the Act of December 11, 1963 (77 Stat. 350) is amended by changing "$266,000" to "$286,000".

16 USC 450qq-4

(4) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188), is amended by changing "$2,900,000" to "$6,565,000".

(5) Capitol Reef National Park, Utah: Section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing "$1,052,700 (April 1970 prices)" to "$1,373,000 for development.", and by deleting "for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.".

16 USC 273f.

(6) Carl Sandburg Home National Historic Site, North Carolina: Section 3 of the Act of October 17, 1968 (82 Stat. 1154), is amended by changing "$952,000" to "$1,662,000".

(7) Cowpens National Battlefield Site, South Carolina: Section 402 of the Act of April 11, 1972 (86 Stat. 120), is amended by changing "$3,108,000" to "$5,108,000".

(8) De Soto National Memorial, Florida: Section 3 of the Act of March 11, 1948 (62 Stat. 78), as amended, is further amended changing "$3,108,000" to "$5,108,000".

16 USC 450dd note.

(9) Fort Bowie National Historic Site, Arizona: Section 4 of the Act of August 30, 1964 (78 Stat. 681), is amended by deleting "$550,000 to carry out the purposes of this Act.", and inserting in lieu thereof: "$85,000 for land acquisition and $1,043,000 for development".

(10) Frederick Douglass Home, District of Columbia: Section 4 of the Act of September 5, 1962 (76 Stat. 435), is amended by changing "$413,000" to "$1,350,000".

(11) Grant Kohrs Ranch National Historic Site, Montana: Section 4 of the Act of August 25, 1972 (86 Stat. 632), is amended to read as follows: "SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $752,000 for land acquisition and not to exceed $2,075,000 for development."; the additional sums herein authorized for land acquisition may be used to acquire the fee simple title to lands over which the United States has acquired easements or other less than fee interests.

(12) Guadalupe Mountains National Park, Texas: Section 6 of the Act of October 15, 1966 (80 Stat. 920), is amended by changing "$10,362,000" to "$24,715,000", and by adding the following new sentence at the end of the section: "No funds appropriated for development purposes pursuant to this Act may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.".

16 USC 283e.

(13) Gulf Islands National Seashore, Florida-Mississippi: Section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing "$17,774,000" to "$24,224,000", and by deleting the phrase "(June 1970 prices) for development, plus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved herein.", and inserting in lieu thereof "for development.".

16 USC 4592h–10.

(14) Harper's Ferry National Historical Park, Maryland-West Virginia: Section 4 of the Act of June 30, 1944 (58 Stat. 645), is amended further by changing "$8,690,000" to "$12,385,000".

16 USC 450bb note.

(15) Hubbell Trading Post National Historic Site, Arizona: Section 3 of the Act of August 28, 1965 (79 Stat. 584), is amended by changing "$952,000" to "$977,000".

16 USC 461 note.

16 USC 460u-9.

(16) Indiana Dunes National Lakeshore, Indiana: Section 10 of the Act of November 5, 1966 (80 Stat. 1312), is amended by changing "$8,500,000" to "$9,440,000".

(17) John Muir National Historic Site, California: Section 3 of the Act of August 31, 1964 (78 Stat. 753), is amended by striking out "$300,000 for land acquisition and restoration of the buildings thereon." and inserting in lieu thereof "$224,000 for land acquisition and $1,285,000 for development".

75 Stat. 782.

(18) For the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland: Section 4 of the joint resolution of October 4, 1961 (75 Stat. 783) is amended by inserting "(a)" after "Sec. 4." and by adding the following new subsection (b) at the end thereof:

"(b) In addition to such other sums as have been appropriated for such purposes, there is authorized $2,000,000 for development.".

(19) Longfellow National Historic Site, Massachusetts: Section 4 of the Act of October 9, 1972 (86 Stat. 791), is amended by changing $586,000 (May 1971 prices)" to "$682,000 for development.", and by deleting "of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(20) Pecos National Monument, New Mexico: Section 3 of the Act of June 28, 1965 (79 Stat. 195), is amended by changing "$500,000" to "$2,375,000".

16 USC 433c note.

(21) Perry's Victory and International Peace Memorial, Ohio: Section 4 of the Act of October 26, 1972 (86 Stat. 1181), is amended by changing "$5,177,000" to "$9,327,000".

16 USC 282c.

(22) San Juan Island National Historical Park, Washington: Section 4 of the Act of September 9, 1966 (80 Stat. 737), is amended by changing "$3,542,000" to "$5,575,000".

(23) Sitka National Historical Park, Alaska: Section 3 of the Act of October 18, 1972 (86 Stat. 904), is amended by changing "$691,000 (June 1971 prices)" to "$1,571,000", by changing the comma following "development" to a period, and by deleting the remainder of the sentence following said period.

(24) Statue of Liberty National Monument, New York-New Jersey: Section 1 of the joint resolution of August 17, 1965 (79 Stat. 543), is amended by changing "$6,000,000" to "$24,000,000."

(25) Thaddeus Kosciuszko Home National Historic Site, Pennsylvania: Section 3 of the Act of October 21, 1972 (86 Stat. 1046), is amended by changing "$592,000" to "$742,000".

(26) Tuskegee Institute National Historic Site, Alabama: Section 104(e) of the Act of October 26, 1974 (88 Stat. 1463), is amended by changing "$2,722,000" to "$2,862,000".

16 USC 460q-9.

(27) Whiskeytown-Shasta-Trinity National Recreation Area, California: Section 10 of the Act of November 8, 1965 (79 Stat. 1295), is amended by changing "$22,700,000" to "$24,649,000".

(28) William Howard Taft National Historic Site, Ohio: Section 3 of the Act of December 2, 1969 (83 Stat. 273), is amended by changing "$318,000" to "$1,888,000".

16 USC 430mm.

(29) Wilson's Creek National Battlefield, Missouri: Section 3 of the Act of December 16, 1970 (84 Stat. 1441), is amended by changing "$2,285,000 (March 1969 prices)," to "$5,640,000.", and deleting the remaining portion of the sentence following the period.

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

SEC. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows:

Appropriation authorizations.

(1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "$116,000,000" to "$156,700,000".

16 USC 698m.

(2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "$30,071,500" to "$39,948,000".

16 USC 460m–14.

(3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "$10,500,000" to "$28,500,000".

16 USC 459i–9.

SAWTOOTH NATIONAL RECREATION AREA

SEC. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "$19,802,000" to "$47,802,000".

16 USC 460aa–12.

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions:

Appropriation authorizations.

(1) Bent's Old Fort National Historic Site, Colorado: To add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417–80,007–A, and dated June 1976: $842,000.

(2) Cape Cod National Seashore, Massachusetts: To add approximately thirteen acres and to delete approximately sixteen acres as generally depicted on the map entitled "Cape Cod National Seashore Boundary Map", numbered 609–60,015 and dated February 1978.

(3) Chiricahua National Monument, Arizona: To add approximately four hundred and forty acres as generally depicted on the map entitled "Boundary Map, Chiricahua National Monument, Arizona", numbered 145–80,002, and dated August 1977: $294,000.

(4) Coronado National Memorial, Arizona: To add approximately three thousand and forty acres and delete approximately twelve hundred acres as generally depicted on the map entitled "Land Status Map 01, Coronado National Memorial, Cochise County, Arizona", numbered 8630/80,001, and dated October 1977: $1,410,000.

(5) Eisenhower National Historic Site, Pennsylvania: To add approximately one hundred ninety-five and eighty-three one-hundredths acres as generally depicted on the map entitled "Boundary Map, Eisenhower National Historic Site, Adams

County, Pennsylvania", numbered 446-40,001B, and dated April 1978: $166,000.

(6) Fort Caroline National Memorial, Florida: To add approximately ten acres as generally depicted on the map entitled "Boundary Map, Fort Caroline National Memorial, Florida", numbered 5310/80,000-A, and dated April 1978: $170,000.

(7) George Washington Birthplace National Monument, Virginia: To add approximately eighty-two and twenty-five one-hundredths acres as generally depicted on the map entitled "Boundary Map, George Washington Birthplace National Memorial, Virginia", numbered 332-30,000-B and dated September 1978: $450,000.

(8) Great Sand Dunes National Monument, Colorado: To add approximately one thousand one hundred and nine acres as generally depicted on the map entitled "Boundary Map, Great Sand Dunes National Monument, Colorado", numbered 140-80,001-A. and dated November 1974: $166,000.

(9) Gulf Islands National Seashore, Mississippi-Florida: To add approximately six hundred acres as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Mississippi-Florida", numbered 20,006, and dated April 1978: $300,000.

(10) Hawaii Volcanoes National Park, Hawaii: To add approximately two hundred sixty-nine acres as generally depicted on the map entitled "Boundary Map, Hawaii Volcanoes National Park, Hawaii", numbered 80,000, and dated August 1975: $562,000.

(11) John Day Fossil Beds National Monument, Oregon: To add approximately one thousand four hundred and eleven acres, and to delete approximately one thousand six hundred and twenty acres as generally depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument, Oregon", numbered 177-30,000-B, and dated May 1978: $3,500,000. The Act of October 26, 1974 (88 Stat. 1461), which designates the John Day Fossil Beds National Monument is amended by deleting the second proviso of section 101(a)(2). Furthermore, notwithstanding any other provision of law to the contrary, the Secretary may, if he determines that to do so will not have a substantial adverse effect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately sixty acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such conveyance, the boundaries of the monument are hereby revised to exclude the lands conveyed.

Land conveyance.

(12) Monocacy National Battlefield, Maryland: To add approximately five hundred and eighty-seven acres as generally depicted on the map entitled, "Boundary Map, Monocacy National Battlefield", numbered 894-40,001, and dated May 1978: $3,500,000.

(13) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

(14) Oregon Caves National Monument, Oregon: To add approximately eight acres as generally depicted on the map entitled "Oregon Cave, Oregon", numbered 20,000, and dated April 1978: $107,000.

(15) Salem Maritime National Historic Site, Massachusetts: To add approximately fifteen one-hundredths of an acre as generally depicted on the map entitled "Salem Maritime National Historic Site Boundary Map", numbered 373-80,010, and dated February 1978: $67,500.

(16) Theodore Roosevelt National Memorial Park, North Dakota: To add approximately one hundred and forty-six acres, and delete approximately one hundred and sixty acres as generally depicted on map entitled "Boundary Map Theodore Roosevelt National Memorial Park-North Unit McKenzie County/North Dakota", numbered 387/80,020, and dated July 1977.

(17) Tumacacori National Monument, Arizona: To add approximately seven acres, and delete approximately eleven-hundredths of an acre as generally depicted on the map entitled "Boundary Map, Tumacacori National Monument, Arizona", numbered 311-80,009-A, and dated March 1978: $24,000.

(18)(A) Tuzigoot National Monument, Arizona: To add approximately seven hundred and ninety-one acres as generally depicted on the map entitled "Master Proposal, Tuzigoot National Monument", numbered 378-30,000D, and dated January 1973: $1,350,000.

Land acquisitions.

(B) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise and subject to such terms, reservations, conditions applied to the acquired lands as he may deem satisfactory, the lands and interests in lands that are included within the boundaries of the Tuzigoot National Monument as revised by this paragraph. When so acquired, they shall be administered in accordance with provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535).

Administration.

16 USC 1 *et seq.*

Property conveyance.

(C) In exercising his authority to acquire such lands and interests in lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national monument and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Arizona. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(19) White Sands National Monument, New Mexico: To add approximately three hundred and twenty acres, and delete approximately seven hundred and sixty acres as generally depicted on the map entitled "Boundary Map, White Sands, National Monument, New Mexico", numbered 142/20,010-A, and dated November 1973.

(20) William Howard Taft National Historic Site, Ohio: To add approximately three acres as generally depicted on the map entitled "Boundary Map, William Howard Taft National Historic Site, Ohio", numbered 448-40,021, and dated January 1977.

(21) Wind Cave National Park, South Dakota: To add approximately two hundred and twenty-eight acres as generally depicted on the map entitled "Boundary Map, Wind Cave National Park, South Dakota", numbered 108-80,008, and dated July 1977: $227,000.

MAPS AND DESCRIPTIONS

Publication in Federal Register.

SEC. 302. Within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from any area pursuant to section 301.

ACQUISITION AND DISPOSAL OF LANDS

SEC. 303. (a) Within the boundaries of the areas as revised in accordance with section 301, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Lands and interests therein so acquired shall become part of the area to which they are added, and shall be subjected to all laws, rules, and regulations applicable thereto. When acquiring any land pursuant to this title, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for a term not to exceed twenty-five years or for the life of the owner or owners. Lands owned by a State or political subdivision thereof may be acquired only by donation.

(b) (1) Lands and interests therein deleted from any area pursuant to section 301 may be exchanged for non-Federal lands within the revised boundaries of such area, or transferred to the jurisdiction of any other Federal agency or to a State or political subdivision thereof, without monetary consideration, or be administered as public lands by the Secretary, as the Secretary may deem appropriate.

(2) In exercising the authority contained in this section with respect to lands and interests therein deleted from any such area which were acquired from a State, the Secretary may, on behalf of the United States, transfer to such State exclusive or concurrent legislative jurisdiction over such lands, subject to such terms and conditions as he may deem appropriate, to be effective upon acceptance thereof by the State.

(c) It is the established policy of Congress that wilderness, wildlife conservation, and park and recreation values of real property owned by the United States be conserved, enhanced, and developed. It is further declared to be the policy of Congress that unutilized, underutilized, or excess Federal real property be timely studied as to suitability for wilderness, wildlife conservation, or park and recreation purposes. To implement this policy, the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget shall establish a system with appropriate procedures to permit the Secretary full and early opportunity to make such studies and propose appropriate recommendations to disposing agencies for consideration in connection with determinations of further utilization or disposal of such property under existing law. Each affected executive agency is authorized and directed to provide to the Secretary such advice and information relating to such studies as the Secretary may request.

Studies and recommendations system, establishment.

OTHER AUTHORITIES

SEC. 304. The authorities in this title are supplementary to any other authorities available to the Secretary with respect to the acquisition, development, and administration of the areas referred to in section 301.

NAME CHANGE; CITY OF REFUGE NATIONAL HISTORICAL PARK

SEC. 305. The Act of July 21, 1955 (69 Stat. 376) is hereby amended to redesignate the City of Refuge National Historical Park as the Puuhonua o Honaunau National Historical Park.

16 USC 397–397b, 397d.

BLACK HAMMOCK ISLAND

SEC. 306. The lot on Black Hammock Island, identified by warranty deed numbered 70–56,903, recorded among the land records of Duval County, Florida, on November 23, 1970, owned by the Federal Government, shall, pursuant to the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19g, 19h), be deeded to the National Park Foundation to be sold at fair market value. The proceeds of such sale shall be remitted to the National Park Service for land acquisition and development of the Fort Caroline National Memorial.

ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE AND JOHNSTOWN FLOOD NATIONAL MEMORIAL

Boundary revisions.

SEC. 307. (a) The Secretary is authorized to revise the boundaries of the Allegheny Portage Railroad National Historic Site and the Johnstown Flood National Memorial in Pennsylvania to add approximately five hundred and twenty-six acres and sixty-seven acres respectively. Sections 302 and 303 of this Act shall be applicable to such boundary revision.

Appropriation authorization.

(b) In addition to amounts otherwise available for such purposes there are authorized to be appropriated not more than $2,743,000 for land acquisition and $4,280,000 for development to carry out the purposes of this section.

FORT LARAMIE NATIONAL HISTORIC SITE

16 USC 426k.

SEC. 308. (a) The first section of the Act entitled "An Act to revise the boundaries and change the name of the Fort Laramie National Monument, Wyoming, and for other purposes", approved April 29, 1960 (74 Stat. 83), is amended to read as follows: "That in order to preserve the sites of historic buildings and roads associated with Fort Laramie, the boundaries of the Fort Laramie National Historic Site shall hereafter comprise the area generally depicted on the map entitled 'Boundary Map, Fort Laramie National Historic Site', numbered 375–90,001, and dated September 1977. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior".

(b) The first sentence of section 2 of such Act is amended by inserting between the words "boundary" and "described" the phrase "as depicted on the map.".

FORT UNION TRADING POST NATIONAL HISTORIC SITE

SEC. 309. (a) The first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended by deleting "located in Williams County, North Dakota, and such additional lands and interests in lands in Williams County, North Dakota, and Roosevelt County, Montana," and inserting in lieu thereof "located in the

States of North Dakota and Montana," and by deleting "400 acres" and inserting in lieu thereof "450 acres as generally depicted on the map entitled 'Fort Union Trading Post, Montana-North Dakota', numbered 436-80,025, and dated February 1977".

80 Stat. 211.

Study and recommendation to Congress.

(b) Section 4 of such Act is amended by deleting "$613,000 for the acquisition of lands and interests in lands and for the development" and inserting in lieu thereof "$280,000 for the acquisition of lands and $4,416,000 for development: *Provided further*, That the Secretary is directed to study the possible reconstruction of the historic remains of Fort Union, and the Secretary is further directed to transmit to the Congress, within one year of the enactment of this Act, a recommendation on the reconstruction of the fort based on historic documentation.".

ADDITION OF DORCHESTER HEIGHTS TO THE BOSTON NATIONAL HISTORICAL PARK

16 USC 410z.

SEC. 310. (a) Section 2(a) of the Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended—

(1) in paragraph (6) by striking out "and" at the end thereof;

(2) in paragraph (7) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(8) Dorchester Heights, Boston.".

16 USC 410z-1.

(b) Section 3(a) of such Act is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) by striking out "(4) Dorchester Heights; and"; and

(3) by striking out "(5)" and inserting in lieu thereof "(4)".

Appropriation authorization. 16 USC 410z note.

(c) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section as a component of the Boston National Historical Park, and for the development of such component.

Easements and rights-of-way grants.

(d) Section 2(d) of such Act is amended by deleting the period at the end of the last sentence and inserting: "and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this Act, easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.".

FORT CLATSOP NATIONAL MEMORIAL

Land and improvements, designation.

SEC. 311. Section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm-1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and thirty acres.".

ADAMS NATIONAL HISTORIC SITE, MASSACHUSETTS

Property conveyance.

SEC. 312. (a) In order to preserve for the benefit, education, and inspiration of present and future generations the birthplaces of John Adams and John Quincy Adams, the Secretary is authorized to accept the conveyance, without monetary consideration, of the property known as the John Adams Birthplace at 133 Franklin Street, and the property known as the John Quincy Adams Birthplace at 141 Franklin Street, in Quincy, Massachusetts, together with such adjacent real property as may be desirable, for administration as part of the Adams National Historic Site in Quincy, Massachusetts. Together with, or following such conveyance, the Secretary is authorized to accept the conveyance, without monetary consideration, of furnishings and personal property relating to such birthplaces, after consultation with appropriate officials of the city of Quincy and with the owner or owners of such furnishings and personal property.

Administration.

(b) The Secretary shall administer the properties acquired pursuant to subsection (a) of this section as part of the Adams National Historic Site in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*
16 USC 461 note.

ADDITION OF EPPES MANOR TO PETERSBURG NATIONAL BATTLEFIELD

Land acquisition.

SEC. 313. (a) The Secretary is authorized to acquire the historic Eppes Manor, and such other lands adjacent thereto, not to exceed twenty-one acres, for addition to the Petersburg National Battlefield, as generally depicted on the map entitled "Petersburg National Battlefield, Virginia", numbered APMA 80,001, and dated May 1978.

Appropriation authorization.

(b) There are hereby authorized to be appropriated not to exceed $2,200,000 to carry out the purposes of this section.

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

16 USC 45f.

SEC. 314. (a) It is the purpose of this section to—

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge; and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

Drawing copy, availability.

Boundary revisions, publication in Federal Register and advisement to congressional committees.

(b)(1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the "park") a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before the date of the enactment of this Act as the Sequoia National Game Refuge and as depicted on the drawing entitled "Boundary Map, Sequoia-Kings Canyon National Park", numbered 102-90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Interior and Insular Affairs of the United

States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Sequoia National Game Refuge, abolition.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

Lands and interests, acquisitions.

(c) (1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

Use and occupancy rights, retention.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

Fair market value.

Termination, notification.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding the enactment of this Act, the commercial use of such property subsequent to the enactment of this Act shall be treated as incompatible with the purposes of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding the enactment of this Act, any substantial change or expansion of such commercial use subsequent to the enactment of this Act without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after the date of the enactment of this Act.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in

order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

Area acquisition.

(6) If the management plan prepared under subsection (e) provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

Report to congressional committees.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e).

Administration.

(d)(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. and following) and the Act of September 25, 1890 (26 Stat. 478; 16 U.S.C. 41 and following). Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before the enactment of this Act shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

Leases or permits, renewals or extensions, review.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were lessees or permittees of record on the date of enactment of this Act, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(3) The Act of December 14, 1974 (88 Stat. 1660) is amended by inserting the following new section after section 4:

16 USC 45a-1 note.

"SEC. 5. Notwithstanding any other provision of law, any federally owned lands incorporated within the boundaries of Sequoia National Park subsequent to the date of enactment of this Act, which entail project works, developments, lands, or facilities which are components of Federal Power Commission Project Numbered 298, shall be subject to all provisions of this Act.".

Comprehensive management, plan, submittal to congressional committees. 16 USC 45f.

(e)(1) Within two years from the date of enactment of this Act, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

Public participation.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

Advance notice, publication in Federal Register and newspapers.

Cooperation.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

Consultation.

Appropriation authorization.

(f) There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section.

Repeals.
16 USC 688 note.

(g) Effective upon the transfer referred to in subsection (b)(2), Public Law 85-648 (72 Stat. 604; 16 U.S.C. 45a-3) and section 6 of the Act of July 3, 1926 (44 Stat. 821; 16 U.S.C. 688) are hereby repealed. The repeal of such section 6 shall not be construed to prohibit or prevent the Secretary from exercising any authority applicable to the national parks respecting the protection of birds, game, or other wild animals.

Skiing.
16 USC 45f.

(h) The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

16 USC 460ff-1.

SEC. 315. (a) Section 2(a) of the Act of December 27, 1974, entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area" (88 Stat. 1784) is amended by striking out "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,000-A, and dated September 1976," and inserting in lieu thereof "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,001-A, and dated May 1978,".

16 USC 460ff-5.

(b) Section 6(a) of such Act is amended by striking out "$41,100,000" and inserting in lieu thereof "$70,100,000".

Appropriation authorization.

(c) The first sentence of section 6(b) of such Act is amended to read as follows: "For the development of the recreation area, including improvements of properties acquired for purposes of this Act, there is authorized to be appropriated not more than $13,000,000".

(d) Section 2(e) of such Act is amended by adding the following at the end thereof: "In applying this subsection with respect to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress, the date 'January 1, 1978,' shall be substituted for the date 'January 1, 1975,' in each place it appears.".

16 USC 460ff-3.

(e) Section 4(f) of such Act is amended by inserting "(or intergovernmental organization)" after "local government" in each place it appears and by adding the following new sentence at the end thereof: "Assistance under this subsection may include payments for technical aid.".

Land acquisition.

(f) Section 2(a) is further amended by striking the period at the end thereof and adding the following, ": *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the recreation area, subject to the laws and regulations applicable thereto.".

DELAWARE WATER GAP NATIONAL RECREATION AREA

Lands, acquisition.
16 USC 460o-1.

SEC. 316. Section 2(a) of the Act entitled "An Act to authorize establishment of the Delaware Water Gap National Recreation Area, and for other purposes", approved September 1, 1965 (79 Stat. 612) is amended by adding the following at the end thereof: "Beginning on the date of the enactment of the National Parks and Recreation Act of 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this Act all lands and interests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupancy in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d). On the date of enactment of the National Parks and Recreation Act of 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this Act, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On the date of enactment of the National Parks and Recreation Act of 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

Use and occupancy rights, retention.

Authority, termination and transfer.

Funds, transfer.

Acquisition priorities.

"(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

"(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

"(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

"(4) acquisition of lands of beneficial owners, not being a corportion, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

"(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

"(6) acquisition of lands necessary to preserve the integrity of the recreation area.".

GOLDEN GATE NATIONAL RECREATION AREA

Composition and boundaries.
16 USC 460bb-1.

SEC. 317. (a) Subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended to read as follows: "(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled: 'Revised Boundary Map, Golden Gate National Recreation Area', numbered NRA-GG-80,003-K and dated October 1978. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more than one and nine-tenths acres. Notwithstanding any other provision of this Act, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199–181–01, 199–181–06, 199–181–08, 199–181–13, and 199–181–14, located in the Muir Beach portion of the recreation area.".

(b) Section 3(i) of such Act is amended to read as follows:

New construction, limitation.
16 USC 460bb–2.
Ante, p. 3484.

Notice and public hearing.

Exception.

"(i) New construction and development within the boundaries described in section 2(a) on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.".

(c) Subsection 3(j) of such Act is amended to read as follows:

Use and occupancy right, retention.

Payment.

Termination and notification.

Federally-owned land, lease.

"(j) The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.".

"Agricultural property."

(d) In subsection 3(k) of such Act, following "June 1, 1971." insert "or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978."; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date."

(e) Section 3 of such Act is amended by adding the following at the end thereof:

Management.

"(n) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

Payment deferral, scheduling, and interest rate.

"(o) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

16 USC 460bb-3.

(f) Section 4 of such Act is amended by adding the following at the end thereof:

Fees or admission charges.

"(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

Certain rental proceeds, crediting.

"(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.".

Management contract.

16 USC 460bb-4.

(g) Section 5(b) of such Act is amended by changing the word "fifteen" to "seventeen".

POINT REYES NATIONAL SEASHORE

Area description.
16 USC 459c-1.

Sec. 318. (a) Section 2(a) of the Act of September 13, 1962 (76 Stat. 538) as amended (16 U.S.C. 459) is further amended as follows:

"Sec. 2. (a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore', numbered 612-80,008-E and dated May 1978.

Map, availability.

"The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and

Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.".

(b) Section 5(a) of such Act is amended to read as follows:

Use and occupancy rights, retention. 16 USC 459c-5.

"Sec. 5. (a) The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned lands, lease.

(c) In subsection 5(b) of such Act, following "September 1, 1959," insert "or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.".

"Agricultural property."

(d) Section 5 of such Act is amended by adding the following new subsection (c) to read as follows:

Payment deferral, scheduling, and interest rate.

"(c) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

(e) Section 8 of such Act is renumbered section 9 and the following new section is inserted after section 7:

16 USC 459c-7.

"Sec. 8. The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of this Act.".

Cooperation. 16 USC 459c-6b.

Land use and occupancy, terms and conditions.

ANTIETAM NATIONAL BATTLEFIELD

Scenic easements, acquisition.
16 USC 430oo note.

SEC. 319. (a) In furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (74 Stat. 79), and other Acts relative thereto, the Secretary is hereby authorized to acquire only scenic easements over the additional lands generally depicted on the map entitled "Boundary Map, Antietam National Battlefield, Washington County, Maryland," numbered 302-80.005-A and dated June 1977.

Site, redesignation.
16 USC 430nn note.
Boundary revision.

(b) The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960, including only scenic easements acquired pursuant to subsection (a) of this section, is hereby redesignated the "Antietam National Battlefield". The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

16 USC 410y-6.
Boundary revision.
16 USC 410y-1a.

SEC. 320. Section 8(b) of the Act of January 8, 1971 (84 Stat. 1978) is amended by changing "$20,400,000" to "$28,400,000". The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however*, That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

Description.

SEC. 321. (a) The first section of the Act of August 31, 1965 (79 Stat. 587) is amended by adding at the end thereof the following: "The national monument shall comprise the area generally depicted on the map entitled 'Boundary Map Alibates Flint Quarries', numbered 432-80,021, and dated November 1976. Minor boundary adjustments may be made from time to time by the Secretary.".

(b) Section 3 of such Act is amended by deleting "$260,000" and inserting "$4,291,000" in lieu thereof.

Redesignation.
16 USC 431 note.

(c) The Act of August 31, 1965 (79 Stat. 587) is hereby amended to redesignate the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument as the Alibates Flint Quarries National Monument.

FIRE ISLAND NATIONAL SEASHORE

Boundaries.
16 USC 459e.

SEC. 322. (a) Subsection 1(b) of the Act of September 11, 1964 (78 Stat. 928), as amended, is further amended to read as follows:

"(b) The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as 'Fire Island National Seashore', numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.".

Map, publication in Federal Register.

(b) Section 2 of such Act is amended by adding the following new subsection at the end thereof:

"(g) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.".

Undeveloped tracts and property.
16 USC 459e-1.

(c) Section 7(b) of such Act is amended by striking the phrase "Brookhaven town park at", and inserting in lieu thereof: "Ocean Ridge portion of".

16 USC 459e-6.

(d) Section 10 of such Act is amended by striking "$18,000,000", and inserting in lieu thereof "$23,000,000".

16 USC 459e-9.

CUMBERLAND ISLAND NATIONAL SEASHORE

SEC. 323. Section 1 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing the phrase "numbered CUIS-40,000B, and dated June 1971,", to read "numbered CUIS 40,000D, and dated January 1978,".

16 USC 459i.

TITLE IV—WILDERNESS

DESIGNATION OF AREAS

SEC. 401. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), and shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act:

Administration.
16 USC 1132 note.
16 USC 1131 note.

(1) Buffalo National River, Arkansas, wilderness comprising approximately ten thousand five hundred and twenty-nine acres and potential wilderness additions comprising approximately twenty-five thousand four hundred and seventy-one acres depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas", numbered 173-20,036-B and dated March 1975, to be known as the Buffalo National River Wilderness.

(2) Carlsbad Caverns National Park, New Mexico, wilderness comprising approximately thirty-three thousand one hundred and twenty-five acres and potential wilderness additions comprising approximately three hundred and twenty acres, depicted on a map entitled "Wilderness Plan, Carlsbad Caverns National Park, New Mexico," numbered 130-20,003-B and dated January 1978, to be known as the Carlsbad Caverns Wilderness. By January 1, 1980, the Secretary shall review the remainder of the park and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any additional areas within the park for preservation as wilder-

Report to President.

ness, and any designation of such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 1131 note.

(3) Everglades National Park, Florida, wilderness comprising approximately one million two hundred and ninety-six thousand five hundred acres and potential wilderness additions comprising approximately eighty-one thousand nine hundred acres, depicted on a map entitled "Wilderness Plan, Everglades National Park, Florida", numbered 160-20,011 and dated June 1974, to be known as the Everglades Wilderness.

(4) Guadalupe Mountains National Park, Texas, wilderness comprising approximately forty-six thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Guadalupe Mountains National Park, Texas", numbered 166-20,006-B and dated July 1972, to be known as the Guadalupe Mountains Wilderness.

(5) Gulf Islands National Seashore, Florida, and Mississippi, wilderness comprising approximately one thousand eight hundred acres and potential wilderness additions comprising approximately two thousand eight hundred acres, depicted on a map entitled "Wilderness Plan, Gulf Islands National Seashore, Mississippi, Florida", numbered 635-20,018-A and dated March 1977, to be known as the Gulf Islands Wilderness.

(6) Hawaii Volcanoes National Park, Hawaii, wilderness comprising approximately one hundred and twenty-three thousand one hundred acres and potential wilderness additions comprising approximately seven thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Hawaii Volcanoes National Park, Hawaii", numbered 124-20,020 and dated April 1974, to be known as the Hawaii Volcanoes Wilderness.

(7) Organ Pipe Cactus National Monument, Arizona, wilderness comprising approximately three hundred and twelve thousand six hundred acres and potential wilderness additions comprising approximately one thousand two hundred and forty acres, depicted on a map entitled "Wilderness Plan, Organ Pipe Cactus National Monument, Arizona", numbered 157-20,001-B and dated October 1978, to be known as the Organ Pipe Cactus Wilderness.

(8) Theodore Roosevelt National Memorial Park, North Dakota, wilderness comprising approximately twenty-nine thousand nine hundred and twenty acres, depicted on maps entitled "Theodore Roosevelt National Memorial Park, North Dakota" (North Unit and South Unit) numbered 387-20,007-E and dated January 1978, to be known as the Theodore Roosevelt Wilderness.

MAP AND DESCRIPTION

Public availability.

Filing with congressional committees.

SEC. 402. A map and description of the boundaries of the areas designated in this title shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in this title. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 403. Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

Designation notice, publication in Federal Register.
16 USC 1131 note.
Management.

ADMINISTRATION

SEC. 404. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SAVINGS PROVISIONS

SEC. 405. Nothing in this title shall be construed to diminish the authority of the Coast Guard, pursuant to sections 2 and 81 of title 14, United States Code, and title 1 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221), or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida; and the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

GUAM NATIONAL SEASHORE

SEC. 501. (a) The Secretary through the Director of the National Park Service, shall revise and update the National Park Service study of the Guam National Seashore and, after consultation with the Secretary of the Department of Defense and the Governor of Guam, shall transmit the revised study within two years to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives including his recommendations and a series of options for congressional consideration each of which—

Study revision, transmittal to congressional committees.

(1) will encompass the area from Ajayan Bay to Nimitz Beach including Cocos and Anac Islands and extending inland as far as the Fena Valley Reservoir and Mount Sasalaguan, and

(2) if implemented, will afford protection to the natural and historic resources of the area as well as providing visitor access and interpretive services.

(b) The Secretary, and the Secretary of the Department of Defense, shall take such actions as they may deem appropriate within their existing authorities to protect the resource values of the submerged lands within the area of the study referred to in subsection (a) of this section.

Submerged lands resource values, protection.

PINE BARRENS AREA, NEW JERSEY

16 USC 471i.

SEC. 502. (a) The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

Pinelands National Reserve. Establishment.

(c) There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary

Federal Project Review Area. Establishment.

Map, availability.

Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d), and in locations throughout the Pinelands National Reserve as determined by the planning entity.

Comprehensive management plan.

(d) Within thirty days after the date of enactment of this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

Planning entity, membership.

Assistance and grants to States.

Consultations.

(e) During the development of the management plan, the planning entity shall:

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B);

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

Public hearings.

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

Resource assessment.

(1) A resource assessment which:

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

Boundary map, delineations.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

Land use map and policy statement.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

Coordination.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

Financial component.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

Programs.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

Implementation plan.
33 USC 1251 note.
42 USC 201 note.

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act and the Safe Drinking Water Act which pertain to the surface and ground waters of the Pinelands National Reserve.

Comprehensive management plan approval and submittal to Congress.

(g) (1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d). In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation.

Approval considerations.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

Plan disapproval and revision recommendations, notification.
Plan resubmittal and consideration.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

Federal assistance, termination and reimbursement.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

Plan modifications and revisions.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

Grants.

(h)(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

16 USC 460*l*-4 note.

(B) The grants authorized by subsection (h)(1)(A) together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

Lands, waters, and interests, acquisition.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1), the Secretary, during the development of the management plan, is authorized to acquire such lands, waters

or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

Property conveyance, terms and conditions.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1), which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, That the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

State reimbursement.

Grants.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

Applications, review.

(i) During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A-95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k).

Notifications.

(j) Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

Appropriation authorization.

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts.

43 USC 331 note.

EDGAR ALLAN POE NATIONAL HISTORIC SITE

Establishment.
16 USC 461 note.

SEC. 503. (a) In recognition of the literary importance attained by Edgar Allan Poe, there is hereby authorized to be established the Edgar Allan Poe National Historic Site.

Lands and buildings, acquisition.

(b) The Secretary is authorized to acquire by donation, purchase or exchange the lands and buildings within the area described in subsection (c). The lands and buildings acquired by the Secretary under this section shall comprise the Edgar Allan Poe National Historic Site and shall be administered by the Secretary through the National Park Service. The Secretary shall administer, maintain, protect, and develop the site subject to the provisions of law generally applicable to national historic sites.

Description.

(c) The lands and buildings specified in subsection (b) comprise that area of Philadelphia, Pennsylvania, known as the Poe House complex and includes the house at the rear of 530 North Seventh Street, the adjoining three-story brick residence on the front of the land backing up to and including the building at 532 North Seventh Street, and the North Garden of approximately seven thousand and eighty square feet and the South Garden of approximately nine thousand three hundred and fifty square feet.

Notice, publication in Federal Register.

(d) As soon as the Secretary finds that a substantial portion of the acquisition authorized under subsection (b) has been completed, he shall establish the Edgar Allan Poe National Historic Site by publication of notice thereof in the Federal Register.

Appropriation authorization.

(e) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

SAINT PAUL'S CHURCH, EASTCHESTER

Property acquisition.
16 USC 461 note.

SEC. 504. (a) In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

Administration.

(b) Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) and the Act approved

August 21, 1935. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired.

16 USC 461 note.

KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK

Establishment and description.
16 USC 396d.

SEC. 505. (a) In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokohau National Historical Park (hereinafter in this section referred to as the "park") in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled "Kaloko-Honokohau National Historical Park," numbered KHN-80,000, and dated May 1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

Land acquisition.

(b) Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law.

Administration.

(c) The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including the Acts approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461-467), and August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and generally in accordance with the guidelines provided in the study report entitled "Kaloko-Honokohau" prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690-514.

(d)(1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

Cooperative management agreement.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park boundary, following the marine management policies of the State of Hawaii.

(3) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

Agreements, consultation.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua's concept of land and water management.

(e) In carrying out the purposes of this section the Secretary is authorized and directed as appropriate to employ native Hawaiians.

Native Hawaiians.

For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778.

Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau. Establishment. Membership.

(f)(1) There is hereby established the Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau (The Friends of Kaloko-Honokohau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

Chairman.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacancy in the Commission shall be filled by appointment for the remainder of the term.

Compensation and expenses.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as ex officio nonvoting members of the Commission.

Duties.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

Meetings.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

Termination.

(7) The Advisory Commission shall terminate ten years after the date of enactment of this Act.

Appropriation authorization.

(g) There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 506. (a) In order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance as one of only two important battles of the Mexican War fought on American soil, the Secretary is authorized to establish the Palo Alto Battlefield National Historic Site in the State of Texas.

Lands and interests, acquisition.

Study and recommendations to Congress.

Publication in Federal Register.

(b) For the purposes of this section, the Secretary is authorized to acquire by donation, purchase, or exchange, not to exceed fifty acres of lands and interests therein, comprising the initial unit, in the vicinity of the site of the battle of Palo Alto, at the junction of Farm Roads 1847 and 511, 6.3 miles north of Brownsville, Texas. The Secretary shall complete a study and recommend to the Congress such additions as are required to fully protect the historic integrity of the battlefield by June 30, 1979. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal

Administration.

Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. Pending such establishment and thereafter, the Secretary shall administer the property acquired pursuant to this section in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*
16 USC 461 note.

Appropriation authorizations.

(c) There are authorized to be appropriated such sums as may be necessary for lands and interests in lands and $200,000 for development to carry out the provisions of this section.

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

16 USC 460kk.

SEC. 507. (a) The Congress finds that—

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

Establishment.

Management.

(b) There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the "recreation area"). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public.

Description.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(c)(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled "Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone", numbered SMM-NRA 80,000, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Lands, waters, and interests, acquisition and consultation.

(2) Not later than ninety days after the date of enactment of this Act, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commence acquisition of lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by

donation, except that such lands acquired after the date of enactment of this section by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest: *Provided, however*, That the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of moneys available for grants to the State under subsection (n) of this section. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

Federal property, transferral.

Site transferral.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided*, That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to the enactment of this Act. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

Lands, waters, and interests, identification.

(d)(1) Within six months after the date of enactment of this Act, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

Revisions.

Plan, submittal to congressional committees.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests as, in his judgment are necessary for the purposes of the recreation area.

Improved properties, acquisition.

Scenic easements.

(f) For the purposes of this section, the term "improved property" means—

Definition.

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1976 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as "improved property" for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

Designation.

(g) The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Use and occupancy rights, retention.

Payment.

Termination, notification.

(h) In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). In the administration of the recreation area, the Secretary may utilize such statutory authority

Administration.

available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

Cooperative agreements.

(j) The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

Donations.

(k) Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

Report.

(l) By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

Report to congressional committees.

(m) The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the Committees referred to in subsection (c) which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendations. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section.

Comprehensive plan.

(n)(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Consultation with EPA.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

Grants.

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

Funds.

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission.

Assurance requirements.

No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

Grant requirements.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of this section, or adopts or acquiesces in changes to laws regulations or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

Plan changes.

Comments.

(o) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c), and the head of any Federal agency having authority to license or permit any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the "findings" and purposes of this section.

(p) The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

Santa Monica Mountains National Recreation Area Advisory Commission. Establishment. Membership.

(q)(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) five members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

Meetings. Notice, publication in newspapers.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

Compensation and expenses.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section.

Consultation.

(r) There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Appropriation authorization.

(s) For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t), any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate—

Management plan, transmittal to Congress.

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

SEC. 508. (a) There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

Establishment. 16 USC 461 note.

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

9 Stat. 496; 10 Stat. 158, 305.

(3) early active settlement during the years of the Donation Land Law (1850-1855) and thereafter; and

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

Comprehensive plan.

(b)(1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

Transmittal to President of the Senate and Speaker of the House.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

Management and administration.

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

Assistance.

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

Grants.

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

Lands and interests, acquisition.

(d) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Administration.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this section.

16 USC 1 *et seq.*

Determination and notification.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

Withdrawal.

Appropriation authorization.

(f) There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 509. (a) The Secretary is authorized to establish the Friendship Hill National Historic Site in the State of Pennsylvania, including the former home of Albert Gallatin, as depicted on the map entitled "FRHI-80000" dated February 1978. Said map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, District of Columbia. The Secretary is authorized to acquire such land, improvements, and any personal property of cultural and historical value thereon by donation, purchase with donated or appropriated funds, or exchange.

Acquisitions.

Administration.

(b) Pending establishment of the site and thereafter the Secretary shall administer property acquired pursuant to this section in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), as amended.

Appropriation authorization.

(c)(1) There are hereby authorized to be appropriated from the Land and Water Conservation Fund, such sums as may be necessary to carry out the purposes of this section.

(2) For the development of essential facilities there are authorized to be appropriated for the fiscal year ending September 30, 1980, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this section, but not to exceed $100,000. Within three years from the effective date of this section, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

General management plan, transmittal to congressional committees.

(A) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(B) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(C) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

THOMAS STONE NATIONAL HISTORIC SITE

Home and grounds, acquisition.

SEC. 510. (a) The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the Thomas Stone home and grounds, known as Habre-de-Venture, located on Rose Hill Road near La Plata in Charles County, Maryland, for establishment as the Thomas Stone National Historic Site.

Notice, publication in Federal Register.

Administration.

(b) The national historic site shall be established by the Secretary by the publication of notice to that effect in the Federal Register at such time that he determines he has sufficient ownership to constitute an administrable unit. After such publication, the site shall be administered by the Secretary pursuant to the provisions of this section and the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

Appropriation authorization.

(c) To carry out the purposes of this section, there is hereby authorized to be appropriated not to exceed $600,000 for the acquisition of lands and interests therein and not to exceed $400,000 for development.

MAGGIE L. WALKER NATIONAL HISTORIC SITE

Establishment.
16 USC 461 note.

SEC. 511. (a) The Secretary is authorized to establish the Maggie L. Walker National Historic Site (hereinafter in this section referred to as the "historic site") in the city of Richmond, Virginia.

Description.

(b) The historic site shall comprise the area extending east from the western boundary of the Maggie L. Walker House at 113 East Leigh Street in Richmond, Virginia, to Third Street and extending north from an east-west line which coincides with the front property line of such house to an east-west line which coincides with the north side of the alleyway immediately at the rear of such house. Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor revisions in the boundaries of the historic site by publication of a map or other revised boundary description in the Federal Register.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(c) Within the boundaries of the historic site, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Any property within such boundaries owned by the State of Virginia or any political subdivision thereof may be acquired only by donation.

Notice, publication in Federal Register.

Administration.

(d) When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the historic site by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the historic site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461 et seq.). Funds available for the historic site shall be available for restoration and rehabilitation of properties therein in accordance with cooperative agreements entered into pursuant to section 2(e) of the Act of August 21, 1935, supra.

Appropriation authorization.

(e)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $795,000 for acquisition of lands and interests in land and not more than $500,000 for the development of essential facilities.

(2) Within three complete fiscal years from the date of enactment of this section, the Secretary shall develop and transmit to the Committees referred to in subsection (b) a general management plan for the historic site consistent with the purposes of this section. Such plan shall indicate—

Plan, transmittal to congressional committees.

(i) facilities needed to accommodate the health, safety, and educational needs of the public;

(ii) the location and estimated cost of all facilities; and

(iii) the projected need for any additional facilities.

CROW CREEK VILLAGE ARCHEOLOGICAL SITE

SEC. 512. (a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment, a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasibile alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo County or other suitable entity.

Feasibility/suitability study, transmittal to congressional committees.
16 USC 1a-5 note.
Cost estimates.

(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary.

Site preservation.

Subtitle B—Trails

SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources".

16 USC 1241.

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert ", scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows:

National historic trails.
16 USC 1242.
16 USC 1244.

"(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved

Protected segments, certification.

if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.".

Ante, p. 3511.
16 USC 1242.

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

Establishments.
16 USC 1244.

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby established the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Appalachian", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

Oregon National Historic Trail.

"(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841–1848', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The trail shall be administered by the Secretary of the Interior.

Mormon Pioneer National Historic Trail.

"(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, 'Mormon Trail Vicinity Map, figure 2' in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

Continental Divide National Scenic Trail.

"(5) The Continential Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as 'Proposed Continental Divide National Scenic Trail' in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

16 USC 1246.

Lewis and Clark National Historic Trail.

"(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as, 'Vicinity Map, Lewis and Clark Trail' study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

Iditarod National Historic Trail.

"(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as 'Seward-Nome Trail', in the Department of the Interior's study report entitled 'The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails' dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.".

16 USC 1244.

Studies, submittal to Congress.

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior," insert "through the agency most likely to administer such trail,"; delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:".

Recommendations, inclusion.

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);".

Additional trails proposals and report, provisions.

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs:

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as

Nationally significant, qualifications.

trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

16 USC 1244.

(13) In section 5(c), add the following at the end thereof:

"(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.".

Trail advisory councils, establishments.

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

Term and compensation.

Membership.

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

Chairman.

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

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(15) In section 5 add two new subsections (e) and (f) as follows:

16 USC 1244. Comprehensive plan, consultation and submittal to congressional committees.

"(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

Ante, p. 3514.

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans including anticipated costs.

Comprehensive plan, consultation and submittal to congressional committees.

"(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

"(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act.".

16 USC 1246.
16 USC 1245.

(16) In section 6 in the first sentence delete "or national scenic," and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic".

(17) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection

(c), after "scenic", insert "or national historic"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national historic"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

Trail markers.
16 USC 1246.

(18) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

16 USC 1246 note.

Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail.

(19) In section 7(e), in the first proviso, delete "within two years".

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

16 USC 1246 note.

No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

16 USC 1247.

(22) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

16 USC 470 note.

16 USC 1249.

(23) In section 10, strike "(a) (1)" and insert in lieu thereof "(a)"; strike "the subsequent fiscal year" and insert in lieu thereof "subsequent fiscal years"; strike the paragraph numbered "(2)" in its entirety; and add a new "subsection (c)" as follows:

Appropriation authorization.

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), and (7): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.".

TITLE VI—MISCELLANEOUS PROVISIONS

FACILITIES AT YELLOWSTONE NATIONAL PARK

SEC. 601. (a) The Secretary is hereby authorized to acquire and upgrade the concession facilities owned by the Yellowstone Park Company at Yellowstone National Park in the State of Wyoming.

Appropriation authorization.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

RIDGELANDS AREA STUDY

16 USC 1a-5 note.

SEC. 602. (a) In order to consider preserving in their natural condition appropriate segments of the Ridgelands east of San Francisco Bay for protection of the area's unique ecology and topography and for public outdoor recreation, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System. The Secretary shall consult with the Secretary of Agriculture, the Chief of Engineers, Department of the Army, and any other appropriate Federal agencies, as well as with the East Bay Regional Park District, the Association of Bay Area Governments, and other State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the Ridgelands. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

Consultation and coordination.

Report to President and Congress.

(b) The Secretary shall submit to the President and the Congress of the United States, within one year after the date of enactment of this Act, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, historic, natural, and outdoor recreation values of the Ridgelands, including their use for walking, hiking, horseback riding, bicycling, swimming, picnicking, camping, forest management, fish and wildlife management, educational exhibiting, and scenic and historic site preservation;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

(3) the relationship of any recommended national park, recreation area, or wilderness area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire San Francisco Bay area;

(4) alternative means of restoring and preserving the values inherent in the area under present ownership patterns; and

(5) the development of public land policies consistent with the protection of private open space land.

Appropriation authorization.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

PRESERVATION OF HISTORICAL AND ARCHAEOLOGICAL DATA

SEC. 603. (a) The Act of June 27, 1960 (74 Stat. 220) as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) is amended as follows:

16 USC 469c.

(b) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: "$500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(c) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(d) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended.".

NEW AREA STUDIES, GENERAL MANAGEMENT PLANS, AND CONTRACTS

SEC. 604. The Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the System, and for other purposes" (84 Stat. 825) is amended as follows:

Appropriation authorization.
16 USC 1a-5.

(1) At the end of section 8 add the following: "For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.".

16 USC 463.

(2) In section 9, change "eleven" to "twelve".

16 USC 1a-7.

(3) Delete section 12(b) and insert in lieu the following:

General management plans.

List, submittal to Congress.

"(b) General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

"(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

"(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.".

(4) In section 12(c) delete "or exceeding five years" and insert "or of five years or more".

16 USC 1a-7.

OAK CREEK CANYON AND CHIRICAHUA NATIONAL MONUMENT STUDIES

Boundary determinations.
16 USC 1a-5 note.

SEC. 605. (a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the National Park System, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy.

Consultation.

(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

Report to congressional committees.

(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate.

Legislative recommendations.

LAND AND WATER CONSERVATION FUND ACCOMPLISHMENTS REPORTING DATE

SEC. 606. (a) The first sentence of section 6(f)(7) of the Land and Water Conservation Fund Act (78 Stat. 897) is amended by inserting ", so as to be received by the Secretary no later than December 31," after the word "transmit".

16 USC 460l-8.

16 USC 460*l*-8.

(b) The third sentence of such section 6(f)(7) of such Act is amended by striking out the period and inserting in lieu thereof "by no later than March 1 of each year.".

HELLS CANYON NATIONAL RECREATION AREA

16 USC 460gg.

SEC. 607. The words "September 1975" in section 1(b) of the Act of December 31, 1975 (Public Law 94-199), are deleted and replaced with the words "May 1978," to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

16 USC 1a-5 note.

SEC. 608. (a) In order to consider preserving in its natural condition, the Irvine Coast-Laguna area, California from Newport Beach to Laguna Beach as generally depicted on the map entitled "Irvine Coast-Laguna Study Area", numbered IRV-90,000, and dated June 1978, and in order to consider protection of the area's unique ecology and topography, its watershed and marine environment, and public outdoor recreation opportunities, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System, such as a park, recreation area, or seashore. The Secretary shall consult with other appropriate Federal agencies, as well as with the appropriate State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the area. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

Consultation and coordination.

Report to President and Congress.

(b) The Secretary shall submit to the President and the Congress of the United States, within six months after the date of enactment of this section, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, natural, and outdoor recreation values of the Irvine Coast-Laguna area;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

(3) the relationship of any recommended national park, recreation area, or seashore area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Irvine Coast-Laguna area.

Appropriation authorization.

(c) There is hereby authorized to be appropriated $50,000 to carry out the provisions of this section.

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

80 Stat. 1101.

SEC. 609. The first section of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89-708), is amended by striking out "at no expense to the United States" and inserting in lieu thereof "at no direct operating expense to the Department of the Interior,".

THEODORE ROOSEVELT NATIONAL PARK

SEC. 610. The area formerly known as the "Theodore Roosevelt National Memorial Park", established by the Act of April 25, 1947 (61 Stat. 52), shall henceforth be known as the "Theodore Roosevelt National Park".

16 USC 241g.

16 USC 241 *et seq.*

BADLANDS NATIONAL PARK

SEC. 611. The area formerly known as the "Badlands National Monument", established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the "Badlands National Park".

16 USC 441e-1.

ALBERT EINSTEIN MEMORIAL

SEC. 612. The Secretary of the Interior is authorized to convey for nominal consideration to the National Academy of Sciences, United States Reservation 332A, located on the south side of Square Numbered 88 between 21st Street, 22d Street and Constitution Avenue in the District of Columbia to erect and maintain a Memorial to Albert Einstein. The title to said property shall remain with the National Academy of Sciences so long as the property is used for access. At such time as the property is no longer used for memorial purposes or public access is restricted, title to said property shall revert to the United States.

Property, conveyance and title.
16 USC 431 note.

PEARSON-SKUBITZ BIG HILL LAKE

SEC. 613. The project for flood protection on Big Hill Creek, Kansas, authorized by the Flood Control Act of 1962, Public Law 87-874, shall hereafter be known and designated as the "Pearson-Skubitz Big Hill Lake". Any reference in a law, map, regulation, document, or record, or other paper of the United States to such project shall be held to be a reference to the "Pearson-Skubitz Big Hill Lake".

Designation.
76 Stat. 1180.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SEC. 614. Section 212(a) of the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is further amended by adding the following at the end thereof:

"There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980.".

Appropriation authorization.
16 USC 470t.

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS

Subtitle A—Addition of Segments

ADDITION OF PERE MARQUETTE SEGMENT

SEC. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries, description.
16 USC 1274.

"(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment

Consultation.

Plan, provisions and regulations.

Appropriation authorization.

referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development.".

ADDITION OF RIO GRANDE SEGMENT

Description.
16 USC 1274.

SEC. 702. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Consultation.

Plan and provisions.

"(17) RIO GRANDE, TEXAS.—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with—

"(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

"(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

23 UST 371.

Appropriation authorization.

For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.".

ADDITION OF SKAGIT SEGMENTS

Boundaries.

SEC. 703. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(18) SKAGIT, WASHINGTON.—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon

Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled 'Skagit River—River Area Boundary'; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.".

Consultation.

Investigation and publication in Federal Register.

Appropriation authorization.

ADDITION OF UPPER DELAWARE SEGMENT; SPECIAL PROVISIONS

Boundaries.
16 USC 1274.

SEC. 704. (a) Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled 'The Upper Delaware Scenic and Recreational River', dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.".

Publication in Federal Register.

Appropriation authorization.

Guidelines, publication in Federal Register.
16 USC 1274 note.
16 USC 1277.

(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act, within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register general guidelines for land and

Participation.

Public hearings.

water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the "directly affected States"), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the "Commission"). The Secretary shall provide for participation in the development of the said general guidelines by all levels of State, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the "Advisory Council"). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) (hereinafter in this section referred to as the "Upper Delaware River").

(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

Management plan, submittal to State Governors.
16 USC 1274 note.

16 USC 1271 note.

(c) (1) Within three years from the date of the enactment of this Act, the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the "management plan" or "the plan") for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act, and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

(2) The plan shall apply to the Upper Delaware River and shall set forth—

Map.

(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

(B) a program for management of existing and future land and water use, including the application of available management techniques;

Analysis.

(C) an analysis of the economic and environmental costs and benefits of implementing the management plan including any impact of the plan upon revenues and costs of local government;

(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

Interim programs.

(3) Immediately following enactment of this Act, the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate.

Technical assistance.

(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State.

Public hearings.

(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act. The Secretary is hereby granted such authority as may be required to implement and administer said plan.

Publication in Federal Register.

Administration.

(d) Notwithstanding any provision of the Wild and Scenic Rivers Act, the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, development sites, the preservation of scenic qualities, or for any other purposes: *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act, the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section.

Land and interests, acquisition.
16 USC 1274 note.

(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

Local plans, laws, and ordinances, conformity, review.

Determination.

(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may exercise the authority available to him under the provisions of paragraph (4) hereof.

Professional services, contracts.

(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies. The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

Notification.

Lands and interests, acquisition.

(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act. This subsection shall apply notwithstanding the first sentence of section 6(c) of the Wild and Scenic Rivers Act. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

16 USC 1277.

***Post*, p. 3528.**

Upper Delaware Citizens Advisory Council. Establishment. 16 USC 1274 note. Reports.

(f)(1) At the earliest practicable date following enactment of this Act, but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act, or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region.

Membership.

(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be—

(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at lease one appointee from each county shall be a permanent resident of a municipality abutting the Upper Delaware River);

(B) two members appointed at large by each Governor of a directly affected State; and

(C) one member appointed by the Secretary.

Chairperson.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

Compensation.

Contracts.
16 USC 1274 note.

(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a), the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of—

(1) enforcing State and local laws in such areas, and

(2) removing solid waste from such areas and disposing of such waste.

16 USC 1274 note.

(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act.

16 USC 1284.
Appropriation authorization.

(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

16 USC 1274 note.
16 USC 1274 note.
16 USC 1277.

(j) Where any provision of the Wild and Scenic Rivers Act is inconsistent with any provisions of this section, the provision of this section shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act, with regard to "improved property", the date specified therein, shall, for purposes of the river designated in this Act, be the date of enactment of this Act (rather than January 1, 1967).

ADDITION OF MIDDLE DELAWARE SEGMENT

Boundaries.
16 USC 1274.

SEC. 705. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY.—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.".

Appropriation authorization.

ADDITION OF THE AMERICAN SEGMENT

Boundaries.
16 USC 1274.

Administration.

12 USC 1277.

Appropriation authorization.

Sec. 706. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(21) American, California.—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled 'Proposed Boundary Maps' contained in Appendix I of the document dated January 1978 and entitled 'A Proposal: North Fork American Wild and Scenic River' published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.".

ADDITION OF MISSOURI SEGMENT

Boundaries.

Cooperative agreement.

Notice and consultation.

Administration.

Sec. 707. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(22) Missouri River, Nebraska, South Dakota.—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled 'Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana', prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the 'August 1977 Report'). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

Recreation river features and streambank stabilization structures, construction.

"(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

"(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

Access.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A) (i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.".

Recreational River Advisory Group.

Lands and interests, acquisition. 16 USC 1277.

Appropriation authorization.

SEC. 708. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries. 16 USC 1274.

"(23) SAINT JOE, IDAHO.—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled 'Saint Joe River Corridor Map' on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a 'recreational river' under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the

Administration. Roads and bridges, access.

Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.".

Sand and gravel, removal.

Appropriation authorization.

Subtitle B—Studies

DESIGNATION OF THE KERN RIVER (NORTH FORK) FOR STUDY

16 USC 1276.

SEC. 721. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.".

DESIGNATION OF THE LOXAHATCHEE RIVER FOR STUDY

SEC. 722. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.".

DESIGNATION OF THE OGEECHEE RIVER FOR STUDY

SEC. 723. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(61) OGEECHEE, GEORGIA.—The entire river.".

DESIGNATION OF CERTAIN SEGMENT OF THE SALT RIVER FOR STUDY

SEC. 724. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(62) SALT, ARIZONA.—The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.".

DESIGNATION OF THE VERDE RIVER FOR STUDY

SEC. 725. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.".

DESIGNATION OF THE SAN FRANCISCO RIVER FOR STUDY

SEC. 726. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.".

DESIGNATION OF FISH CREEK FOR STUDY

SEC. 727. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: 16 USC 1276.

"(65) FISH CREEK, NEW YORK.—The entire East Branch.".

DESIGNATION OF BLACK CREEK FOR STUDY

SEC. 728. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.".

DESIGNATION OF ALLEGHENY RIVER FOR STUDY

SEC. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(67) ALLEGHENY, PENNSYLVANIA.—The main stem from Kinzua Dam downstream to East Brady.".

DESIGNATION OF THE CACAPON RIVER FOR STUDY

SEC. 730. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(68) CACAPON, WEST VIRGINIA.—The entire river.".

DESIGNATION OF THE ESCATAWPA RIVER FOR STUDY

SEC. 731. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.".

DESIGNATION OF THE MYAKKA RIVER FOR STUDY

SEC. 732. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(70) MYAKKA, FLORIDA.—The segment south of the southern boundary of the Myakka River State Park.".

DESIGNATION OF SOLDIER CREEK FOR STUDY

SEC. 733. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.".

DESIGNATION OF RED RIVER FOR STUDY

16 USC 1276. SEC. 734. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraph at the end thereof:

"(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.".

AUTHORIZATION FOR STUDIES

SEC. 735. Paragraph (3) of section 5(b) of the Wild and Scenic Rivers Act is redesignated as paragraph (4) and is amended by striking out "$2,175,000" and substituting "$4,060,000". Such paragraph is further amended by adding the following at the end thereof: "There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (74) such sums as may be necessary.".

Appropriation authorization.

STUDY PERIOD

SEC. 736. Section 5(b) of the Wild and Scenic Rivers Act is amended by inserting the following new paragraph after paragraph (2):

"(3) The studies of the rivers named in paragraphs (59) through (72) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981.".

Subtitle C—Authorizations for Funding

ELEVEN POINT RIVER

16 USC 1287. SEC. 751. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Eleven Point, Missouri, $4,906,500" and substituting "Eleven Point, Missouri, $10,407,000".

ROGUE RIVER

SEC. 752. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Rogue, Oregon, $12,447,200" and substituting "Rogue, Oregon, $15,147,000".

SAINT CROIX RIVER

SEC. 753. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Saint Croix, Minnesota and Wisconsin, $11,768,550" and substituting "Saint Croix, Minnesota and Wisconsin, $21,769,000".

SALMON RIVER

SEC. 754. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Salmon, Middle Fork, Idaho, $1,237,100" and substituting "Salmon, Middle Fork, Idaho, $1,837,000".

CHATTOOGA RIVER

SEC. 755. Section 3(a)(10) of the Wild and Scenic Rivers Act (relating to the Chattooga River in North Carolina, South Carolina, and Georgia) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,200,000".

16 USC 1274.

Subtitle D—Amendments to Public Law 90-542

TECHNICAL AMENDMENTS

SEC. 761. Section 2(a) of the Wild and Scenic Rivers Act is amended by striking out "without expense to the United States" and by adding the following at the end thereof: "Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).".

Notification to FERC and publication in Federal Register.
16 USC 1273.

16 USC 460*l*-4 note.

FEDERAL LANDS; COOPERATIVE AGREEMENTS

SEC. 762. Section 12(a) of the Wild and Scenic Rivers Act is amended by striking out the first sentence thereof and substituting: "The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following the date of enactment of this sentence, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii).".

16 USC 1283.

16 USC 1273, 1274, 1276.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 763. (a) Section 3(b) of the Wild and Scenic Rivers Act is amended by inserting after "one year from the date of this Act" the following: "(except where a different date is provided in subsection (a))".

16 USC 1274.

(b) Section 6(g)(3) of such Act is amended by inserting after "January 1, 1967," the following "(except where a different date is specifically provided by law with respect to any particular river)".

16 USC 1277.

(c) Section 16(b) of such Act is deleted in its entirety, and section 16(a) is renumbered as section 16.

16 USC 1287.

LEASE OF FEDERAL LANDS

SEC. 764. The Wild and Scenic Rivers Act is amended by adding the following new section after section 14:

16 USC 1285a.

"SEC. 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

"(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.".

TITLE VIII—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

SEC. 801. Within the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, the Secretary, acting through the Director of the National Park Service, and in consultation with the Governor of each area, is authorized to provide in each of these parks some form of appropriate recognition of the outstanding contributions and untiring commitments of the late Congressman William M. Ketchum of California toward the needs of the people of the insular areas. Fully cognizant of sacrifices that sometimes must be made in order to preserve the basic principles of democracy, Congressman Ketchum personally experienced the devastations of war, as he served with distinction in the United States military during the Second World War in the Pacific Theater and during the Korean Conflict. Congressman Ketchum, an individual of strong principle and commitment, through his leadership and active participation in the United States Congress, made substantial and invaluable contributions to the political and economic growth, development, and well-being of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In particular, he will be remembered for the key role he played in the passage of the historic Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States.

TITLE IX—JEAN LAFITTE NATIONAL HISTORICAL PARK

Establishment.
16 USC 230.

SEC. 901. In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park").

Description.

The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak

Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this title.

Lands, waters and interests, acquisition.
16 USC 230a.

SEC. 902. (a) Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in the first section of this title, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this title, the Secretary may not acquire rights to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this title.

Guidelines or criteria, consultation.

(b) With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in the first section of this title, the Secretary shall, no later than six months from the date of enactment of this Act, in consultation with the affected State and local units of government, develop a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

Values, preservation and protection.

(c) The purpose of any guideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biological systems; and

(4) water and air quality.

Authority, ceding.

(d) Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

Acquisitions.

(e) The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

Boundaries, revision.

(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

Use and occupancy right, retention.
16 USC 230b.

SEC. 903. Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

"Improved property."

Cooperative agreements.
16 USC 230c.

SEC. 904. In furtherance of the purposes of this title, and after consultation with the Commission created by section 7 of this title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of the first section of this title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 906 of this title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

Hunting, fishing, and trapping.
16 USC 230d.

SEC. 905. Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

Consultation.

Notice, publication in Federal Register.
16 USC 230e.

SEC. 906. The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 908, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to secton 904. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this title, the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

Administration.

16 USC 1 *et seq.*
16 USC 461 note.

Delta Region Preservation Commission, establishment and membership.
16 USC 230f.

SEC. 907. (a) There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

Compensation and expenses.

(b) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

Functions.

(c) The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

(d) The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

Appropriation authorization.
16 USC 230g.

SEC. 908. (a) There is authorized to be appropriated, to carry out the provisions of this title, not to exceed $50,000,000 from the Land and

Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

General management plan, submittal to congressional committees.

(b) Within three years from the date of enactment of this title, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

Chalmette Unit, redesignation.
16 USC 230h.

SEC. 909. The area described in the Act of October 9, 1962 (76 Stat. 755), as the "Chalmette National Historical Park" is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

Report to congressional committees.
16 USC 230i.

SEC. 910. By no later than the end of the first full fiscal year following the date of enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

Urban Park and Recreation Recovery Act of 1978.

TITLE X—URBAN PARK AND RECREATION RECOVERY PROGRAM

SHORT TITLE

16 USC 2501 note.

SEC. 1001. This title may be cited as the "Urban Park and Recreation Recovery Act of 1978".

FINDINGS

16 USC 2501.

SEC. 1002. The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilites, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

SEC. 1003. The purpose of this title is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this title.

Program authorization.
16 USC 2502.

Terms and conditions.

DEFINITIONS

SEC. 1004. When used in this title the term—

16 USC 2503.

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this title. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, nonprofit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants;

(i) "State" means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(j) "insular areas" means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Assistance, eligibility.
16 USC 2504.
Publication in Federal Register.

SEC. 1005. (a) Eligibility of general purpose local governments for assistance under this title shall be based upon need as determined by the Secretary. Within one hundred and twenty days after the effective date of this title, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. "Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress."

(b) Notwithstanding the list of eligible local governments established in accordance with subsection (a), the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this title, to other general purpose local governments in standard metropolitan statistical areas as defined by the census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this title for rehabilitation, innovation, and recovery action program grants.

Priority criteria for project selection and approval.

(c) The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

GRANTS TO IMPLEMENT PROGRAM

Grants. 16 USC 2505.

SEC. 1006. (a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

Transference of grants.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

Payments.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

Innovation grants.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 1007(b)(2).

LOCAL COMMITMENTS TO SYSTEM RECOVERY AND MAINTENANCE

16 USC 2506.

SEC. 1007. (a) As a requirement for project approval, local governments applying for assistance under this title shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this title, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate:

Recovery action programs.

Five-year action programs for park and recreation recovery.

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this title shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

Action programs. (b) Action programs shall address, but are not limited to the following considerations:

(1) Rehabilitation of existing recreational sites and facilities, including general systemwide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

Publication in Federal Register. The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) RECOVERY ACTION PROGRAM GRANTS.—The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this title.

STATE ACTION INCENTIVE

Federal implementation grants, increase. 16 USC 2507. SEC. 1008. The Secretary is authorized to increase Federal implementation grants authorized in section 1006 by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

MATCHING REQUIREMENTS

Non-Federal share of project costs.
16 USC 2508.

SEC. 1009. The non-Federal share of project costs assisted under this Title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No moneys from the Land and Water Conservation Fund (77 Stat. 49), as amended, or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 1007(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

CONVERSION OF RECREATION PROPERTY

16 USC 2509.

SEC. 1010. No property improved or developed with assistance under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

COORDINATION OF PROGRAM

16 USC 2510.

SEC. 1011. The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

AUDIT REQUIREMENTS

Recordkeeping.
16 USC 2511.

SEC. 1012. Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this title is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

AUTHORIZATION OF APPROPRIATIONS

16 USC 2512.

SEC. 1013. There are hereby authorized to be appropriated for the purposes of this title, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c), and not more than 10 per centum may be used for innovation grants pursuant to section 6 of this title. Grants made under this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

LIMITATION OF USE OF FUNDS

16 USC 2513.

SEC. 1014. No funds available under this title shall be used for the acquisition of land or interests in land.

SUNSET AND REPORTING PROVISIONS

Reports to Congress.
16 USC 2514.

SEC. 1015. (a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

TITLE XI—NEW RIVER GORGE NATIONAL RIVER

Establishment and administration.
16 USC 460m-15.

SEC. 1101. For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16

U.S.C. 1 et seq.), as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this title. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI-20,002, dated July 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Boundary description, availability for public inspection.

SEC. 1102. (a) Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this title. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

Acquisition of lands, waters, or interests.
16 USC 460m-16.

(b) On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

Non-federally owned lands.

(c) For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

"Improved property."

(d) The owner of an improved property, as defined in this title, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect

Right of use and occupancy, term.

Fair market value.

the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this title, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Termination, notification.

Plan, submittal to congressional committees.
16 USC 460m-17.

SEC. 1103. (a) Within two years from the date of enactment of this title, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

Zoning laws and ordinances, establishment assistance.
16 USC 460m-18.

SEC. 1104. The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this title. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

Mining, prohibition and limitation.
16 USC 460m-19.

SEC. 1105. (a) Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

Timber harvesting.

(b) The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

Recovery.

(c) The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

Hunting and fishing zones, designation.
16 USC 460m-20.

Rules and regulations, consultation.

SEC. 1106. The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

New River Gorge National River, project work prohibition.
16 USC 460m-21.

Advisement to Secretary and report to Congress.

SEC. 1107. The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on the date of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect the national river and the values to be protected by it under this section.

New River, W. Va., tributaries study.
16 USC 1276.

SEC. 1108. Section 5(a) of the Act of October 2, 1968 (82 Stat. 910) is hereby amended to provide for study of three principal tributaries of the New River in West Virginia, by adding the following new paragraphs:

"(73) BLUESTONE, WEST VIRGINIA.—From its headwaters to its confluence with the New.

"(74) GAULEY, WEST VIRGINIA.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

"(75) Greenbrier, West Virginia.—From its headwaters to its confluence with the New.".

General management plan, submittal to congressional committees.
16 USC 460m-22.

Sec. 1109. Within three years from the date of enactment of this title, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this title, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

Cooperation.
16 USC 460m-23.

Sec. 1110. The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

16 USC 460m-24.
42 USC 7470 *et seq.*

Sec. 1111. For the purposes of part C of the Clean Air Act, the State may redesignate the national river only as class I or class II.

Appropriation authorization.
16 USC 460m-25.

Sec. 1112. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this title, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development.

TITLE XII—FORT SCOTT NATIONAL HISTORIC SITE

Land and interests, acquisition.
16 USC 461 note.

Sec. 1201. In order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided*, That the buildings so acquired shall not include the structure known as "Lunette Blair".

Establishment, publication in Federal Register.

Sec. 1202. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

Administration.

Sec. 1203. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*

16 USC 461 note.

Repeals.

SEC. 1204. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided*, That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further*, That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

Appropriation authorization.

SEC. 1205. In addition to such sums as might be made available to the historic site by the preceding section, effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

TITLE XIII—REPORT AND BOUNDARY REVISION

BEAVERHEAD OR GALLATIN NATIONAL FORESTS

Report to congressional committees.

SEC. 1301. Within ninety days from enactment of this Act, the Secretary of Agriculture shall report to the Committee on Interior and Insular Affairs in the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, the nature and extent of the progress of any proposal to exchange lands owned by the Burlington Northern Railroad on either the Beaverhead or Gallatin National Forests in the State of Montana for lands owned by the United States elsewhere in the State of Montana. Such report shall also discuss any study or appraisal work done by any agency of the Federal Government concerning the feasibility, impact, or cost of any such an exchange between the Burlington Northern Railroad and the Federal Government, including the sharing of cost of such study. The Department of Agriculture shall not proceed with the processing of any exchange of more than 6,400 acres until and unless authorized to do so by a concurrent resolution of the Congress.

Congressional authorization requirement.

HAMPTON NATIONAL HISTORIC SITE

Boundary revisions, description.

SEC. 1302. (a) In order to preserve, as part of the Hampton National Historic Site, lands and buildings historically associated with Hampton Mansion, the exterior boundaries of such historic site are hereby revised to include the following described lands:

All that certain tract or parcel of land lying and being situated in Baltimore County, Maryland, and being more particularly described as follows:

Beginning at a point on the northwest side of Hampton Lane (50 feet wide), said corner being common to the lands now or formerly of Hampton Village, Incorporated and the lands of Gertrude C. Ridgely, et al; thence, with the northern right-of-way line of said Hampton Lane, the two following courses and distances:

north 69 degrees 19 minutes 40 seconds east, 188.75 feet; and easterly by a line curving toward the right having a radius of 408.59 feet for a distance of 196 feet (the chord bearing of north 83 degrees 04 minutes 12 seconds east, 194.12 feet); thence, leaving said Hampton Road, north 14 degrees 20 minutes 20 seconds east, 1,095.18 feet to the westernmost corner of Lot numbered 1 as shown on Plat "D" of Hampton and filed for record in Plat Book G.L.B. numbered 20, folio 32; thence, running along the southerly line of the lots fronting on Saint Francis Road (as shown on said plat) on a line parallel to and 200 feet from said street, south 68 degrees 25 minutes 30 seconds west, 777.75 feet to a point on the easterly side of a 40 feet wide road; thence, with said road, north 21 degrees 34 minutes 30 seconds west, 200.00 feet to a point on the southerly right-of-way line of Saint Francis Road; thence, leaving said 40 feet wide road and with said Saint Francis Road, south 68 degrees 25 minutes 30 seconds west, 40.00 feet to a point on the westerly side of said 40 feet wide road; thence, leaving said Saint Francis Road and with said 40 feet wide road, south 21 degrees 34 minutes 30 seconds east, 200.00 feet to a pipe; thence, leaving said 40 foot wide road, south 68 degrees 25 minutes 30 seconds west, 200.00 feet to a corner common to said Hampton Village, Incorporated and the lands of subject owner; thence, with said Hampton Village, Incorporated, south 21 degrees 29 minutes 33 seconds east, 835.03 feet to the point of beginning.

Containing 14.02 acres, more or less.

Lands and interests, acquisition.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") in furtherance of the purposes of this section, is authorized to acquire by donation, purchase, or exchange lands and interests in lands described in subsection (a) of this section.

Administration.

16 USC 1 *et seq.*

16 USC 461 note.

(c) The Secretary shall administer lands acquired under the authority of this section as part of the Hampton National Historic Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the Act of August 21, 1935 (49 Stat. 666).

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1165 accompanying H.R. 12536 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 95-514 (Comm. on Energy and National Resources).

CONGRESSIONAL RECORD:

Vol. 123 (1977): Oct. 27, considered and passed Senate.

Vol. 124 (1978): June 26, July 11, 12, H.R. 12536 considered and passed House.

Oct. 4, considered and passed House, amended.

Oct. 12, Senate concurred in House amendment with amendments.

Oct. 13, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 45 (1978): Nov. 10, Presidential statement.

Public Law 95-626
95th Congress

An Act

To amend the Public Health Service Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes.

Nov. 10, 1978
[S. 2474]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Services and Centers Amendments of 1978.

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services and Centers Amendments of 1978".

42 USC 201 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

42 USC 201 note.

TITLE I—HEALTH CENTERS AND PRIMARY HEALTH CARE

PART A—MIGRANT HEALTH CENTERS AND COMMUNITY HEALTH CENTERS

Migrant and Community Health Centers Amendments of 1978.

SHORT TITLE

SEC. 101. This part may be cited as the "Migrant and Community Health Centers Amendments of 1978".

42 USC 201 note.

REDESIGNATION OF MIGRANT HEALTH CENTERS PROVISION

SEC. 102. (a) Section 319 is redesignated as section 329 and is transferred and inserted before section 330.

42 USC 247d.
42 USC 254b.

(b)(1) Section 217(g) is amended by striking out "319" and inserting in lieu thereof "329" each place it appears.

42 USC 218.

(2) Section 6(b) of the Health Maintenance Organization Act of 1973 (Public Law 93-222) is amended by striking out "310" and inserting in lieu thereof "329".

42 USC 300e-14a.

(3) Section 1903(m)(2)(B)(i) of the Social Security Act is amended by striking out "section 319(d)(1)(A)" and inserting in lieu thereof "section 329(d)(1)(A)".

42 USC 1396b.

AMENDMENTS TO MIGRANT HEALTH CENTERS PROGRAM

SEC. 103. (a)(1)(A) Paragraph (1) of subsection (a) of section 329 (as redesignated by section 102(a) of this part) is amended by inserting "(as determined by the centers)" after "as may be appropriate for particular centers" in subparagraphs (D) and (E).

Supra.

(B) Subparagraph (G) of such paragraph is amended to read as follows:

"(G) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals,".

(C) Such paragraph is further amended by inserting the following before the period at the end thereof: "and individuals who have previously been migratory agricultural workers but can no longer meet the requirements of paragraph (2) of this subsection because of age or disability and members of their families within the area it serves".

(2) Paragraph (6) of such subsection is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(3) Paragraph (7) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services"; and

(C) by striking out subparagraphs (I) and (N), by inserting "and" at the end of subparagraph (L), and by redesignating subparagraphs (J), (K), (L), and (M), as subparagraphs (I), (J), (K), and (L), respectively.

(b) The second sentence of subsection (b)(1) of such section is amended to read as follows: "The highest priorities for such assistance shall be assigned to areas where the Secretary determines the greatest need exists.".

(c) Subsections (a)(5), (c)(1)(B), and (d)(1)(C) of such section are each amended by striking out "six thousand" and inserting in lieu thereof "four thousand".

(d)(1) Subparagraph (B) of subsection (d)(1) of such section is repealed and subparagraph (C) of such subsection is redesignated as subparagraph (B).

(2)(A) Paragraph (2) of subsection (d) of such section is amended by striking out "or (1)(B)".

(B) Paragraphs (1) and (3) of subsection (f) of such section are each amended by striking out "(d)(1)(C)" and inserting in lieu thereof "(d)(1)(B)".

(C) Subsection (h)(2) of such section is amended by striking out "(d)(1)(C)" each place it appears and inserting in lieu thereof "(d)(1)(B)".

(3)(A) Subsection (d)(1) of such section is amended by inserting after subparagraph (B), as so redesignated, the following new subparagraph:

Grants.

"(C) The Secretary may make grants to migrant health centers to enable the centers to plan and develop the provision of health services on a prepaid basis to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (f)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to the management of the provision of health services on a prepaid basis.".

(B) The fourth sentence of subsection (h)(2) of such section is amended by inserting before the period the following: ", and not more than 5 per centum of such funds may be made available for grants under subsection (d)(1)(C)".

(e) Subsection (d) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Not more than two grants may be made under paragraph (1)(C) for the same entity.

"(4)(A) The amount of any grant made in any fiscal year under subparagraph (A) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subparagraph (D) or (E) of subsection (a)(1) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (J), or (L) of subsection (a)(7), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) of this paragraph received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year, exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible under subsection (a) to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(f) Subsection (f) of such section is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (6), respectively;

Grant applications.

(2) by inserting after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) of subsection (d)(1) for a migrant health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subparagraphs (D) and (E) of subsection (a)(1) and in subparagraphs (B), (F), (J), and (L) of subsection (a)(7),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant."; and

Improvements of private property.

(3) by inserting after paragraph (4), as so redesignated, the following new paragraph:

"(5) The Secretary, in making a grant under this section to a migrant health center for the provision of environmental health services described in subsection (a)(1)(D), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.".

Notification of congressional committees.

(g)(1)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of subsection (f) of such section is amended to read as follows: "(ii) selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body of the center has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

"Public center."

(B) Such paragraph is amended by adding at the end after and below subparagraph (J) the following sentence: "For purposes of subparagraph (G) and subsection (h)(4), the term 'public center' means a migrant health center funded (or to be funded) through a grant under this section to a public agency.".

42 USC 254b note.

(C) The change in the governing board requirements for migrant health centers made by the amendment by subparagraph (A) to section 329(f)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public migrant health center which met the governing board requirements in effect under section 319(f)(2)(G)(ii) of such Act before October 1, 1978.

(2) Subparagraph (H) of subsection (f)(3) of such section is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(h) Subsection (g) of such section is amended—

(1) by inserting "(1)" after "(g)", and

(2) by adding at the end the following new paragraph:

List of resources.

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(i)(1)(A) The first sentence of subsection (h)(1) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$2,200,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $2,900,000 for the fiscal year ending September 30, 1981".

(B) The second sentence of such subsection is amended by striking out "two fiscal years" and inserting in lieu thereof "five fiscal years".

(2)(A) The first sentence of subsection (h)(2) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$40,800,000 for the fiscal year ending September 30, 1979, $46,000,000 for the fiscal year ending September 30, 1980, and $52,100,000 for the fiscal year ending September 30, 1981".

(B) The third sentence of such subsection is amended by striking out "fiscal years ending September 30, 1977, and September 30, 1978" and inserting in lieu thereof "any fiscal year".

(3) Subsection (h)(3) of such section is amended to read as follows:

"(3) In any fiscal year, the Secretary shall obligate for payments under grants and contracts in such fiscal year under subsection (d)(1) for the provision of inpatient and outpatient hospital services not less than 10 per centum of the amount appropriated in such fiscal year under paragraph (2).".

(4) Subsection (h) of such section is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (f)(3)) the governing boards of which (as described in subsection (f)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

42 USC 254b note.

(j) The amendments made by this section shall apply with respect to grants and contracts made under section 329 of the Public Health Service Act from appropriations for the fiscal years ending after September 30, 1978.

COMMUNITY HEALTH CENTERS

42 USC 254c.

SEC. 104. (a) Paragraph (4) of subsection (a) of section 330 is amended to read as follows:

"(4) environmental health services, including, as may be appropriate for particular centers (as determined by the centers), the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health, and".

(b)(1) Paragraph (1) of subsection (b) of such section is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(2) Paragraph (2) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services";

(C) by striking out "outreach workers" in subparagraph (N) and inserting in lieu thereof "appropriate personnel"; and

(D) by striking out subparagraph (I) and by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively.

(c)(1)(A) Paragraph (1) of subsection (d) of such section is amended by adding at the end the following new subparagraph:

Grants.

"(C) The Secretary may make grants to community health centers to enable the centers to plan and develop the provision of health services on a prepaid basis to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (e)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to management of the provision of health services on a prepaid basis.".

(B) Paragraph (2) of such subsection is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A) or (1)(B)".

(C) Paragraph (3) of such subsection is amended by inserting "or (1)(C)" after "(1)(B)".

(2) Paragraph (4) of such subsection is amended to read as follows:

"(4)(A) The amount of any grant made in any fiscal year under paragraph (1) (other than subparagraph (C)) to a community health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements,

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subsection (a)(4) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (L), or (M) of subsection (b)(2), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(d)(1) Paragraph (2) of subsection (e) of such section is amended—

(A) by striking out "and" at the end of subparagraph (I),

(B) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new subparagraph:

"(K) the center, in accordance with regulations prescribed by the Secretary, has developed an on-going referral relationship with one or more hospitals.".

Grant applications.

(2) Such subsection is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) or (B) of subsection (d)(1) for a community health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (F), (L), and (M) of subsection (b)(2),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) or (B) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health services described in subsection (a) or (b) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(3)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of such subsection is amended to read as follows: "(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

"Public center."

(B) Such paragraph is amended by adding at the end after and below subparagraph (K) the following sentence: "For purposes of subparagraph (G) and subsection (g)(4), the term 'public center' means a community health center funded (or to be funded) through a grant under this section to a public agency.".

42 USC 254c note.

42USC 254c.

(C) The change in the governing board requirements for public community health centers made by the amendment by subparagraph (A) to section 330(e)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public community health center which met the governing board requirements in effect under section 330(e)(2)(G)(ii) of such Act before October 1, 1978.

(4) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(5)(A) Paragraph (2) of subsection (e) of such section is amended by inserting "paragraph (1)(A) or (1)(B) of" before "subsection (d) unless".

(B) Such subsection is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve applications for grants under paragraph (1)(A) or (1)(B) of subsection (d) for community health centers which—

"(A) have not received a previous grant under such paragraph, or

"(B) have applied for such a grant to expand their services,

in such a manner that the ratio of the medical underserved populations in rural areas which may be expected to use the services provided by such centers to the medical underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

Improvements of private property.

"(5) The Secretary, in making a grant under this section to a community health center for the provision of environmental health services described in subsection (a)(4), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.".

Notification of congressional committees.

(e) Subsection (f) of such section is amended—

(1) by inserting "(1)" after "(f)", and

(2) by adding at the end the following new paragraph:

List of resources.

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(f)(1) Paragraph (1) of subsection (g) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$6,300,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

(2) Paragraph (2) of such subsection is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$341,700,000 for the fiscal year ending September 30, 1979, $397,500,000 for the fiscal year ending September 30, 1980, and $463,000,000 for the fiscal year ending September 30, 1981".

Limitations.

(3) Such paragraph is amended by adding at the end thereof the following sentence: "The Secretary may not expend for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of the funds appropriated under this subsection for that fiscal year.".

Limitations.

(4) Such subsection is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (e)(3)) the governing boards of which (as described in subsection (e)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

42 USC 254c note.

(g) The amendments made by this section shall apply with respect to grants made under section 330 of the Public Health Service Act from appropriations for fiscal years ending after September 30, 1978.

42 USC 254c.

REDESIGNATION OF OTHER PROVISION

42 USC 255.

SEC. 105. (a) Section 339 is amended—

(1) by amending its heading to read as follows: "RECEIPT, APPREHENSION, DETENTION, TREATMENT, AND RELEASE OF LEPERS";

(2) by inserting "(a)" after "SEC. 339.";

Regulations.

(3) by inserting at the end thereof the following new subsection:

"(b) The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy."; and

42 USC 247e.

(4) by redesignating such section as section 320 and inserting it in subpart I of part C of title III immediately before section 321.

Repeals. 42 USC 256, prec. 255.

(b) Section 340 and the heading to part D of title III are repealed.

TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

SEC. 106. (a) Part C of title III is amended by adding after section 338 the following new section:

"TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

42 USC 256a.

"SEC. 340A. (a)(1) The Secretary may make grants to, and enter into contracts with, public and private entities to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or in any combination of such activities) of migrant health centers under section 329, community health centers under section 330, or any other centers for the delivery of primary health care. The technical assistance with respect to which a grant may be made under this paragraph includes—

Ante, p. 3551. 42 USC 254c.

"(A) assistance in the selection of sites for such centers,

"(B) assistance in the selection of governing boards for such centers,

"(C) assistance in the management of the service programs of such centers,

"(D) assistance in the recruitment, selection, and retention of personnel (including members of the National Health Service Corps) for such centers,

"(E) assistance in financial management of such centers, and

"(F) assistance in the procurement of facilities, equipment, and supplies for such centers.

"(2) In making grants and contracts under paragraph (1), the Secretary shall make such grants to, and enter into such contracts with—

"(A) entities which will provide technical assistance on a statewide basis for the planning, development, and operation of centers to provide primary health care in urban and rural areas,

"(B) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in large, densely populated areas,

"(C) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in rural areas,

"(D) entities which will provide technical assistance for the planning, development, and operation of centers to provide primary health care on a regional basis in large States, and

"(E) entities which will provide technical assistance within several contiguous States for the planning, development, and operation of centers to provide primary health care.

Grants and contracts under paragraph (1) (other than those described in subparagraph (E) of this paragraph) to private entities may only be made to such entities to provide technical assistance in the States in which they are primarily engaged in business.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require by regulation.

Limitations.

"(2) The amount of any grant or contract under subsection (a) shall be determined by the Secretary, except that no grant or contract to any entity in any fiscal year may exceed $500,000.

Primary Health Care Advisory Committee. Establishment.

"(c) The Secretary shall establish a Primary Health Care Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to make recommendations respecting—

"(1) the capabilities of applicants for grants and contracts under subsection (a) to effectively carry out the projects for which the grants and contracts would be made;

"(2) the renewal of grants and contracts under such subsection; and

Ante, p. 3560.

"(3) the evaluation to be made under section 106(b) of the Migrant and Community Health Centers Amendments of 1978.

42 USC 217a.

The Committee shall consist of five members appointed by the Secretary, in accordance with section 222, from individuals who are not officers or employees of the Federal Government and who because of their expertise in providing technical assistance to primary health care centers are particularly qualified to serve on the Committee.

Appropriation authorization.

"(d)(1) For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.

"(2) The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

Report to Congress. 42 USC 256a note.

(b) Not later than March 1, 1981, the Secretary of Health, Education, and Welfare shall submit a report to Congress—

Ante, p. 3560.

(1) on the effectiveness of the entities assisted under section 340A of the Public Health Service Act—

Ante, p. 3551, 42 USC 254c.

(A) in establishing centers which meet the requirements of section 329 or 330 of the Public Health Service Act or other centers for the provision of primary health care,

(B) in improving the acceptability, in the communities served, of migrant health centers, community health centers, and other centers engaged in the delivery of primary health care,

(C) in improving the ability of such centers to attract and retain health professions personnel, and

(D) in assisting such centers in reducing their dependence on public funding;

(2) on the extent to which the effectiveness of entities assisted under grants and contracts under such section 340A depends on (A) the type of area to be served by the centers for which planning, development, and operation assistance was provided by such entities, and (B) the organizational structure of such entities;

Ante, p. 3560.
42 USC 241.

(3) comparing the effectiveness of entities assisted under such section 340A with the effectiveness of other entities assisted under other provisions of title III of the Public Health Service Act in providing technical assistance described in paragraph (1); and

(4) recommending the most effective methods for providing technical assistance described in paragraph (1).

Report to Congress.

(c) The Secretary of Health, Education, and Welfare shall conduct an assessment of the various types of continuing education programs available for health professions personnel serving medical underserved populations and the effect such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care to such populations. The Secretary shall report the results of such assessment to Congress not later than January 1, 1980.

MISCELLANEOUS

42 USC 300e-12.

SEC. 107. The first sentence of section 1313 is amended by inserting "(except as provided in sections 329, 330, and 340)" after "Act".

Primary Health Care Act of 1978.

PART B—PRIMARY HEALTH CARE

SHORT TITLE

42 USC 201 note.

SEC. 111. (a) This part may be cited as the "Primary Health Care Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

42 USC 254a-1 note.

SEC. 112. (a) Congress finds that—

(1) although the achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government, there remains a wide disparity throughout the Nation regarding the cost, quality, and availability of primary health services;

(2) despite Federal financing programs designed to eliminate barriers to primary health services for the poor and the elderly, there remains a shortage of health resources to provide such services, especially in medically underserved urban and rural areas; and

(3) residents of urban and rural medically underserved areas lack the availability of basic and appropriate services for health promotion, disease prevention, and primary care.

(b) It is the purpose of this part—

(1) to alleviate the shortage of health resources for the provision of primary health services to urban and rural medical underserved populations in the United States; and

(2) to provide authorities for research and demonstration projects which develop innovative approaches for the organization and delivery of primary health services.

DESIGNATION OF PRIMARY HEALTH CARE PART IN TITLE III OF PUBLIC HEALTH SERVICE ACT

SEC. 113. (a) Title III is amended—

42 USC prec. 248.
42 USC 254a.
Ante, p. 3551.

(1) by striking out the heading to subpart I of part C;

(2) by redesignating section 328 as section 327A; and

(3) by inserting before section 329 (as redesignated by section 102(a) of this Act) the following heading:

"PART D—PRIMARY HEALTH CARE

"Subpart I—Primary Health Centers".

(b) Sections 751(f) and 752(d) are each amended by striking out "subpart II of part C" each place it appears and inserting in lieu thereof "subpart II of part D". 42 USC 294t, 294u.

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

SEC. 114. Subpart I of part D of title III (as provided for under section 113(a) of this Act) is amended by inserting before section 329 the following new section: 42 USC 241. *Ante*, p. 3551.

"HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

"SEC. 328. (a) For purposes of this section:

"(1) The term 'community hospital' means a— **Definitions.** 42 USC 254a–1.

"(A) public general hospital owned and operated by a State, county, or local unit of government or by a public benefit corporation, or

"(B) private nonprofit hospital,

which primarily serves a medical underserved population (as defined in section 330(b)(3)).

"(2) The terms 'hospital-affiliated primary care center' and 'primary care center' mean a distinct administrative unit of a community hospital which is located in or adjacent to the hospital and which— 42 USC 254c.

"(A) provides primary health services (except that emergency medical services shall be provided to the extent practicable through referral to the emergency room of the community hospital) to a catchment area which is determined by the hospital and approved by the Secretary;

"(B) provides, as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services;

"(C) provides referral to providers of supplemental health services and payment, as appropriate and feasible, for their provision of such services;

"(D) provides for, when the center is closed, at least referral to emergency medical services and authorized access to patient medical records on a twenty-four-hours-a-day, seven-days-a-week basis; and

"(E) provides information on the availability and proper use of health services provided by the community hospital and the center.

"(3) The term 'primary care group practice' means, with respect to a primary care center affiliated with a community hospital, any combination of physicians and other health care providers that includes at least three primary care physicians (as defined in section 771(b)(2)(F)(ii))—

"(i) which combination is organized to provide primary health services in a manner which is consistent with the needs of the population to be served by the center, and which uses, where practicable in the provision of such services, nonphysician providers (particularly physician assistants and nurse practitioners) in concert with the physicians of the group practice; 42 USC 295f–1.

"(ii) which combination is located in or adjacent to the community hospital;

"(iii) the physicians of which have admitting privileges to the community hospital;

"(iv) (I) the primary care physicians of which are salaried and full time in the hospital and a majority of whom practice full time in the primary care center, or (II) which combination is organized into a partnership, corporation, or professional association which has an agreement with the hospital to fulfill the obligations described in subparagraphs (A) and (C) of subsection (b)(3); and

"(v) the primary care physicians of which are not all personnel serving with the National Health Service Corps;

42 USC 254e.

except that in the case of such a combination serving a health manpower shortage area (designated under section 332), in lieu of one of the primary care physicians required in such a combination there may be a nurse practitioner or physician assistant.

"Primary care resident."
42 USC 295f-2.

"(4) The term 'primary care resident' means a graduate physician in a training program which (A) is in primary care (as defined in section 772(b)(2)(F)(ii)), (B) is approved by an appropriate certifying body, and (C) requires that at least one-third of the time in the last two years of residency training (or in the case of the osteopathic general practice resident, the last year of residency training) be spent in an ambulatory care setting.

42 USC 254c.

"(5) The terms 'primary health services' and 'supplemental health services' have the meanings given such terms in paragraphs (1) and (2) of section 330(b), respectively.

"(b)(1) The Secretary may make grants to community hospitals to support demonstration projects in the planning, development, and operation of hospital-affiliated primary care centers. To the extent feasible, the Secretary shall not make a grant for such a center to serve a population whose need for primary health services is being met by a community health center, migrant health center, or other health care provider.

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable distribution of primary care centers among urban and rural areas.

"(3) The Secretary may not approve an application for a grant under paragraph (1) with respect to a primary care center affiliated with a community hospital unless the Secretary has made the following determinations:

"(A) The primary health services of the center will be provided through a primary care group practice, and may be provided by a primary care resident if (i) such services are provided under the direction of a member of the practice who is a primary care physician, and (ii) provision of such services by the resident are credited toward the resident's fulfilling the requirement of the residency training program described in subsection (a)(4)(C).

"(B) Except under unusual circumstances (as established by the Secretary by regulation), primary health services provided by the community hospital will be provided only through the center, and qualified personnel trained in triage will be placed in the hospital's emergency room, outpatient department, and in the primary care center to screen and direct patients to the appropriate location for care.

"(C) Each patient of the center will have an identified primary care physician who is a member of the primary care group practice and who is responsible for continuous management of the patient, including the referral of the patient for inpatient, outpatient, or emergency services.

"(D) To the extent practicable, existing facilities and equipment which are in or owned by the community hospital, which are not required for the delivery of inpatient or emergency services, and which are needed in the primary care center will be converted for the use of the primary care center.

"(E) The hospital and primary care center will avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for the provision of routine primary health services.

"(F) The primary care center will be maintained as a separate and distinct cost and revenue center for accounting purposes. Any costs which are not directly associated with the operation of the center (including inpatient-related costs) will not be assigned to the center. Costs associated with the education and training of residents and medical and other health science students will not be calculated into the costs of operating the primary care center, except that the salaries and other costs associated with the provision of services by residents may be calculated into the costs of operating the center as long as such costs are proportional to the actual percentage of time spent by the resident in the provision of services in the primary care center.

"(G) The primary care center will be operated in accordance with all the requirements of section 330(e)(3) (other than subparagraph (G) thereof) applicable to community health centers. 42 USC 254c.

"(H) Unless the community hospital has a governing board described in subparagraph (G) of section 330(e)(3) for the primary care center, the application for the grant has been reviewed and approved by an advisory board which is established by the community hospital and which—

"(i) is composed of individuals a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center,

"(ii) participates in the development of the application for the grant under this section and in the development of any application for the renewal of such a grant, and

"(iii) once the primary care center becomes operational, meets at least six times each year to review the operations of the center and to develop recommendations to the hospital's governing board concerning the types of services to be provided by, and the operations of, the center.

"(I) The primary care center will provide for an information program for its patients under which patients are fully informed of the covered professional services and referral services offered by the center and of the methods by which patient grievances respecting billing for such services, or the quality of such services, may be resolved.

"(J) The operating hours of the primary care center will include those periods when the community hospital's emergency room and outpatient department are most utilized.

Application priorities.

"(4) In reviewing and approving applications for grants under this section, the Secretary shall give priority to the application of any community hospital—

"(A) which (i) is located in a State whose laws do not prohibit the hospital from establishing a governing board for its affiliated primary care center which board meets the requirements of subparagraph (G) of section 330(e)(3) for the governing board of a private community health center, and (ii) has established such a governing board, or

Ante, p. 3558.

"(B) which is located in a State whose laws prohibit the hospital from establishing such a board.

"(5) Grants under this subsection may be used for covering the costs of planning, developing, and operating hospital-affiliated primary care centers, including the costs of acquiring and modernizing existing buildings or space located in or adjacent to the community hospital (including the costs of amortizing the principal of, and paying interest on, loans).

"(c) The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Report to Congress.

"(d) Not later than March 1, 1981, the Comptroller General shall submit a report to Congress evaluating the operation of hospital-affiliated primary care centers, including, with their voluntary participation, those centers not assisted under this section. With respect to such centers the Comptroller General shall—

"(1) assess the costs of such centers and their methods of allocating costs between the centers and their affiliated hospitals;

"(2) assess the methods of reimbursement used (particularly under titles XVIII and XIX of the Social Security Act) for services provided by such centers;

42 USC 1395, 1396.

"(3) compare the cost and effectiveness of providing primary health services through such centers with the cost and effectiveness of providing such services through community health centers and other entities providing similar services, and

"(4) assess the degree to which the hospitals provided assistance under this section are complying with the requirements specified under subsection (b)(3).

Appropriation authorization.

"(e) There are authorized to be appropriated for the purpose of making payments for grants under subsection (a) and for the provision of assistance under subsection (c)—

"(1) for the planning and development of primary care centers, $5,000,000 for the fiscal year ending September 30, 1979, and

"(2) for the planning, development, and operation of primary care centers, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981.

Limitation.

Not more than $150,000 may be used for the planning and development of any single primary care center.".

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

SEC. 115. Part D of title III is further amended— 42 USC 241.

(1) by adding after section 338 the following subpart heading: 42 USC 254k.

"Subpart IV—Research and Demonstration Projects in Primary Care";

and

(2) by adding after such subpart heading the following new section: Grants and contracts.

"PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 340. (a) The Secretary may make grants to, and enter into contracts with, public and private entities which provide health services— 42 USC 256.

"(1) to demonstrate new and innovative methods for the provision of primary health services and dental health services, or

"(2) to conduct research on such methods or on existing methods for the provision of primary health services and dental health services,

to medical underserved populations or to such other populations as the Secretary determines are necessary to demonstrate or conduct research on particular methods.

"(b) Grants and contracts may be made under subsection (a) to demonstrate and conduct research on—

"(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners, and other health professionals, both individually and as teams, to train and practice among medical underserved populations;

"(2) differing types of organizational models and relationships, including federations of health service centers, designed to meet unique primary health and dental health service needs;

"(3) management and technological improvements (including new or improved methods for biomedical communication and medical and financial recordkeeping and billing systems) to increase the productivity, effectiveness, efficiency, and financial stability of primary health and dental health service providers;

"(4) methods of providing health promotion, disease prevention, and health education programs, including school health programs;

"(5) methods of identifying, coordinating, and integrating existing primary health and dental health service programs with mental health and social service programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system;

"(6) specific services or mixtures of services appropriate for a given area, including ambulatory care, home health care, environmental health services (described in section 330(a)(4)), community outreach activities, transportation services, and other supplemental health services (as defined in section 330(b)(2));

"(7) the effect of availability of primary health and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long-term care facilities;

"(8) the use of mobile health screening clinics to provide preventive health care services to meet the needs of medical underserved populations; and

"(9) such other projects as the Secretary determines to be necessary to further the purposes of this section.

"(c)(1) The Secretary may not make a grant or enter into a contract under this section for a project if the project can be carried out under the authority of any other provision (other than section 301) of this Act.

42 USC 241.

"(2) The Secretary shall, to the extent feasible, coordinate demonstration and research projects carried out under this section with any demonstration and research projects carried out under the Social Security Act for the reimbursement of services which are the subject of projects under this section.

42 USC 1305.

"(d)(1) No grant may be made under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

Report to Congress.

"(e) The Secretary shall submit an annual report to Congress not later than March 1 of each year (beginning with 1979) describing—

"(1) the projects conducted under this section during the fiscal year ending in the previous year and why they could not be assisted under the authority of other provisions of this Act;

"(2) the amount of funds expended in such fiscal year for each project area set forth in subsection (b) and, if more than 20 per centum of the amount appropriated for this section was expended on any single such project area, the reasons for such concentration of expenditures; and

"(3) any recommendations resulting from the conduct of such projects.

In the first such report, the Secretary shall include the number of demonstration projects which were funded under section 1110 of the Social Security Act during the fiscal year ending September 30, 1978, which were related to health services in rural medical underserved areas, and which could have been assisted under this section during the fiscal year ending September 30, 1979, but for subsection (c)(1) of this section.

42 USC 1310.

"Medical underserved population."
42 USC 254c.
Appropriation authorization.

"(f) As used in this section, the term 'medical underserved population' has the meaning given such term in section 330(b)(3).

"(g)(1) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in areas that are not urbanized areas (as defined by the Census Bureau) $18,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $22,000,000 for the fiscal year ending September 30, 1981.

"(2) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in urbanized areas (as defined by the Census Bureau) $4,000,000 for the fiscal year ending September 30, 1979, $4,500,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

"(3) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(4) The Secretary may continue to support, out of funds appropriated under this section, those demonstration projects which were funded under section 1110 of the Social Security Act during fiscal year ending September 30, 1978, and which are related to health services in rural medical underserved areas, but only if such projects can not be carried out under the authority of any other provision (other than section 301) of this Act.". 42 USC 1310. 42 USC 241.

SPECIAL REPORTS ON PRIMARY HEALTH CARE NEEDS OF IMMIGRANTS, NATIVE INDIANS, AND ALASKAN ESKIMOS AND ON THE FUTURE OF THE NATIONAL HEALTH SERVICE CORPS

Reports to Congress. 42 USC 256 note. Consultation.

SEC. 116. (a) Not later than June 30, 1979, the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall submit to Congress a special report on the primary health care needs of immigrants. The report shall be developed through consultation with the Commissioner of the Immigration and Naturalization Service, with leaders in the health care area, and with representatives of immigrants. The report shall contain (1) an assessment of the access of (and barriers to) immigrants in receiving health care services, (2) an assessment of the health needs of such immigrants, and (3) specific recommendations for the development of a national strategy to address these needs, taking into account the fact that significant numbers of immigrants reside in a select number of specific States.

(b)(1) Not later than June 30, 1979, the Secretary shall submit to Congress a special report on the primary health care needs of each of the specific tribes of American Indians and Alaskan Natives. Such report shall be developed with the consultation of the Director of the Indian Health Service, with leaders in the field of health care, and with representatives of tribes of American Indians and of Alaskan Natives and of national Indian organizations. Such report shall contain (1) an assessment of the access of (and barriers to) American Indians and Alaskan Natives in receiving health care services, (2) an examination of the types of alternative health delivery systems (such as mobile health care services) existing or needing to be developed to provide appropriate access of American Indians and Alaskan Natives who are medical underserved populations (as defined in section 330(b)(3) of the Public Health Service Act) to health services, (3) an examination of the types of alternatives to institutionalization existing or needing to be developed for such populations, and (4) specific recommendations on each such issue. 42 USC 254c.

(c) Not later than February 1, 1979, the Secretary shall submit to Congress a special report on the present and future direction of the National Health Service Corps, particularly (1) its role as a health manpower program and as a health services delivery program, (2) the use and placement of members of the Corps in different types of health manpower shortage areas (described in section 332(a)(1) of the Public Health Service Act) in meeting urban and rural health needs, (3) the different types of health professionals which are needed to meet urban and rural health needs and which should be encouraged to participate in the Corps, and (4) the projected size, composition, and use of the manpower of the Corps through 1985. Such report shall be developed through consultation with the National Advisory Council on the National Health Service Corps (established under section 337 of the Public Health Service Act) and with the National Advisory Council on Health Professions Education (established under section 702 of the Public Health Service Act). 42 USC 254d note. 42 USC 254e. Consultation. 42 USC 254j. 42 USC 292b.

PART C—MISCELLANEOUS PROVISIONS

SPECIAL PROJECTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Grants.
42 USC 295h-1.

SEC. 121. Section 792(b) is amended to read as follows:

"(b) The Secretary may make grants to assist educational institutions in meeting the costs of special projects in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning, or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.".

INCREASE IN AUTHORIZATION FOR NATIONAL HEALTH SERVICE CORPS

42 USC 254k.

SEC. 122. Section 338(a) is amended by striking out "$57,000,000" and inserting in lieu thereof "$64,000,000".

Health Services Extension Act of 1978.

TITLE II—HEALTH SERVICES EXTENSION

SHORT TITLE

42 USC 201 note.

SEC. 200. This title may be cited as the "Health Services Extension Act of 1978".

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

42 USC 246.

SEC. 201. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,000,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $20,000,000 for the fiscal year ending September 30, 1979".

42 USC 246 note.

(b)(1) The Congress finds and declares that—

(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.

42 USC 246.

(2) Effective October 1, 1979, section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d) (1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services.

Grants.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

Application.

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c);

42 USC 300m-3.

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditures in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greatest need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

"Applicable grant computation percentage."

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

Annual review.

"(3)(A) The Secretary shall review annually the activities undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) an amount determined by the Secretary which may not be less than the product of $1.00 and the population of the State served by such authority or more than the product of $1.50 and such population, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

In determining the amount of a grant to a State health authority under subclause (I), the Secretary shall take into account the financial need of such State and the level of State and local expenditures for comprehensive public health services (as defined in subparagraph (C)). In determining the financial need of a State, the Secretary shall consider, as major factors, the proportion of the State's population whose income level is below the poverty income level established by the Secretary and the proportion of its population which is living in medical underserved areas.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants received by such authority under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority.

Notwithstanding clauses (i) and (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clauses to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with the applicable clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clauses in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health authority.

"State and local expenditures for comprehensive public health services."

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or "(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

Appropriation authorization.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1980, and $170,000,000 for the fiscal year ending September 30, 1981.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

Regulations. Consultation.

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

42 USC 247b.

Sec. 202. Effective October 1, 1979, section 317 is amended to read as follows:

"PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

"Sec. 317. (a) The Secretary may make grants—

"(1) to State health authorities to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, hypertension; and

"(2) to States and, in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs (other than programs described in paragraph (1)).

Application.

"(b) No grant may be made under section (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program for which the applicant is seeking a grant under subsection (a);

"(2) with respect to each such program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program, (B) a description of the services provided by the applicant in such program in such period, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

"(3) assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such program will be provided, where appropriate, in a manner consistent with any plans in effect under an application approved under section 315;

42 USC 300m-3.

Post, p. 3578.

"(4) assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines—

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant.

Annual project reviews.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

Recordkeeping.

"(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit, authority.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

42 USC 300u-4.

"(h) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(i) The Secretary may provide technical assistance to States, State health authorities, and other public entities in connection with the operation of their preventive health service programs.

Appropriation authorization.

"(j)(1)(A) Subject to subparagraph (B), for purposes of grants under subsection (a) for preventive health service programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps) and for purposes of grants under such subsection for the fiscal year ending September 30, 1979, for preventative health service programs to immunize individuals against influenza, there are authorized to be appropriated $51,000,000 for the fiscal year ending September 30, 1979,

$39,500,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981.

"(B) No funds appropriated under subparagraph (A) may be obligated for grants for preventive health service programs to immunize individuals against influenza until the Secretary submits to the Committees on Human Resources and Appropriations of the Senate and the Committees on Interstate and Foreign Commerce and Appropriations of the House of Representatives the following:

Reports to congressional committees.

"(i) Not later than June 30, 1979, a complete report on the results of the influenza immunization activities in 1978 and 1979 under funds appropriated under Public Law 95-355, which report shall include information with respect to adverse effects associated with influenza immunization, any known liability arising out of such immunization, any report received by the Secretary on the safety and effectiveness of the vaccine used to provide such immunization, the number of persons immunized, and other experiences with such activities.

Ante, p. 523.

"(ii) A report on the current status of the immunization program conducted under the amendment made to this Act by the National Swine Flu Immunization Program of 1976 (Public Law 94-380), including the status of any claims still pending under the program and the Secretary's plans for dealing with such claims.

42 USC 201 note.

"(iii) As they become available, all reports and information from studies conducted by or under contract with the Secretary with respect to liability arising out of personal injuries or deaths in connection with immunization programs, protection against such liability, and methods of compensation for such injuries and any other reports and information respecting such matters which are available to the Secretary.

"(iv) Specific interim recommendations of the Secretary with respect to the matters referred to in clause (iii).

"(v) A copy of the information which will be distributed to individuals before they receive any influenza immunization under a preventive health service program for which a grant is made under subsection (a).

"(2) For the purpose of grants under subsection (a) for preventive health service programs for the control of rodents there are authorized to be appropriated $14,500,000 for the fiscal year ending September 30, 1979, $15,500,000 for the fiscal year ending September 30, 1980, and $17,000,000 for the fiscal year ending September 30, 1981. Funds appropriated under this paragraph may be used to make grants to nonprofit private entities for any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975. A grant to such an entity shall be made in the same manner as a grant under subsection (a).

Appropriation authorizations.

42 USC 246.

"(3) For the purpose of grants under subsection (a) for programs for hypertension there are authorized to be appropriated $24,500,000 for the fiscal year ending September 30, 1980, $29,000,000 for the fiscal year ending September 30, 1981.

"(4) For the purpose of grants under subsection (a) for preventive health service programs for which appropriations are not authorized by paragraph (1), (2), or (3) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981. No funds appropriated under this paragraph may be used for grants for immunization against influenza.".

FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

SEC. 203. Title III of the Public Health Service Act is amended by adding after section 314 the following new section:

"FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

42 USC 247. "SEC. 315. (a) The Secretary shall make grants to States to assist them in planning for and developing, and in providing (directly and through grants or contracts, or both, the public health authorities of political subdivisions of the States, other public entities, and private entities) preventive health service programs—

"(1) which shall be designed to reduce, through primary or secondary prevention of risk factors and causative conditions, the mortality rate for one or more of the five leading causes of death in a State, and

"(2) which the State receiving a grant under this subsection may design to also reduce, through primary or secondary prevention of risk factors and causative conditions, the burden of illness associated with one or more of the five leading causes of morbidity in the State.

Grant applications. "(b) No grant may be made under subsection (a) for a preventive health service program unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning and developing grant)—

"(1) a detailed plan of the program for which the applicant is seeking a grant under subsection (a), which plan—

"(A) shall require the use, to the extent practicable, of all relevant professional disciplines;

"(B) may, at the option of the State, describe a program or programs that are targeted toward a particular age group;

"(C) shall set forth quantitatively the current relevant rates of mortality or of morbidity, as the case may be, in the State measured and reported in accordance with regulations of the Secretary;

"(D) shall set forth the quantitative goals for reduction in the relevant rates of mortality and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of death in the State;

"(E) shall, if the applicant's program also concerns morbidity, set forth the quantitative goals for reduction in the relevant rates of morbidity and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of morbidity in the State;

"(F) shall require a separate health communications component in the program or programs which shall include a description of how the communications media, including the electronic media, will be used to effectuate the purposes of the programs;

"(G) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and through other means the requirements of subparagraph (F); and

"(H) shall contain such other information as the Secretary may by regulation prescribe;

"(2) with respect to each of the major causes of mortality and morbidity included in the program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period with respect to such cause, (B) a description of the services provided by the applicant in such program in such period with respect to such cause, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

"(3) for assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c); 42 USC 300m-3.

"(4) for assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines— **Application approval.**

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant. **Annual review.**

"(3) Whenever the Secretary finds with respect to funds paid to it under a grant under subsection (a) for a program, that the program is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

Grant funding requirements.

"(d)(1) The total amount of grants made under subsection (a) in the fiscal year ending September 30, 1980, to any State under subsection (a) to assist it in planning and developing a program described in such subsection shall be determined by the Secretary, except that it may not be less than the product of $0.10 and population of the State. Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for the fiscal year ending September 30, 1980, under subsection (l) is less than the amount needed to make grants for that fiscal year in accordance with such sentences to all States with approved applications, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with the preceding sentence as the amount appropriated under subsection (l) bears to the amount needed to make grants in accordance with such sentence for such fiscal year to all States with approved applications.

"(2) The total amount of grants made to any State under subsection (a) for any fiscal year to assist it in providing a program described in such subsection shall be determined by the Secretary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $0.50 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1982, 5 per centum of the amount of State and local expenditures for preventive health services within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(ii) may not be less than the product of $0.25 and the population of the State, except as provided in subsection (c)(3).

Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for that fiscal year under subsection (l) is less than the amount needed to make grants for that fiscal year in accordance with such sentence to all States with approved application the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with such sentence as the amount appropriated under subsection (l) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States with approved application.

"(e) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(f) The Secretary, at the request of a State which is a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which a grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

Recordkeeping.

"(g)(1) Each State which is a recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit, authority.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each State which is a recipient of a grant under subsection (a) that are pertinent to such grant.

"(h)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this subsection shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

42 USC 300u-4.

"(i) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the causes of mortality and morbidity referred to in subsection (a); on the amount of funds obligated under grants under such subsection in the preceding fiscal year to assist the States in operating programs described in such subsection; and on the effectiveness of the programs assisted under grants under such subsection.

Definitions.

"(j)(1) For purposes of subsection (a), the term 'primary prevention of causative conditions' means the prevention of the development of causative conditions in healthy individuals.

"(2) For purposes of subsection (a), the term 'secondary prevention of causative conditions' means the early detection, referral for diagnosis and treatment, or follow-up for compliance with treatment of causative conditions in asymptomatic individuals.

"(3) For purposes of subsection (d)(2), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health authorities for preventive health services but excludes expenditures by such authorities—

"(A) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(B) for operating inpatient care facilities or construction.

"(4) For purposes of subsection (d), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

Appropriation authorization.

"(k)(1) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of planning and developing programs described in such subsection, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980.

"(2) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of providing the programs described in such subsection, there are authorized to be appropriated $60,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

"(3) Not less than 20 per centum of the total amount of grants received by a State under subsection (a) for providing a program described in such subsection shall be obligated by the State for operating the health communications component of such program. No funds appropriated under this paragraph shall be used (A) to assist States in meeting the costs of traditional law enforcement activities (including the prevention of homicide) as defined in regulations of the Secretary, or (B) for construction.".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

42 USC 247c note.

SEC. 204. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease persists in epidemic proportions in the United States;

(2) the number of persons affected by venereal disease and reported to public health authorities is only a fraction of those actually affected;

(3) the incidence of venereal disease continues to be particularly high among American youth, ages fifteen to twenty-nine, and among populations in metropolitan areas;

(4) venereal disease accounts for severe permanent disabilities and sometimes death in newborns and causes reproductive dysfunction in women of childbearing age;

(5) it is conservatively estimated that the public cost of health care for persons suffering from complications of venereal disease exceeds one-half billion dollars annually;

(6) the number of trained Federal venereal disease prevention and control personnel has fallen to a dangerously inadequate level;

(7) no vaccine for syphilis, gonorrhea, or any other venereal disease has yet been developed, nor does a blood test for the detection of asymptomatic gonorrhea in women exist, nor are safe and effective therapeutic agents available for some other venereal diseases;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup have all been found to be effective venereal disease prevention and control methodologies;

(9) skilled and knowledgeable health care providers, informed and concerned individuals and active, well-coordinated voluntary groups are fundamental to venereal disease prevention and control;

(10) biomedical research toward improved diagnostic and therapeutic tools is of singular importance to the elimination of venereal disease; and

(11) an increasing number of sexually transmissible diseases besides syphilis and gonorrhea have become a public health hazard.

(b)(1) Subsection (f) of section 318 is repealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively.

Repeal.
42 USC 247c.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds".

42 USC 247b.

(c)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $51,500,000 for the fiscal year ending September 30, 1980, and $59,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence."

Appropriation authorization.

(2) Subsection (b) of such section is amended (A) by striking out "(1)" and paragraph (2), (B) by inserting "and public information and" after "demonstration," and (C) by striking out "and training".

42 USC 247c.

(d)(1) Section 318(c) is amended—

(A) by inserting "also" after "The Secretary is" in paragraph (1),

(B) by striking out "and public" in clause (D) of paragraph (1) and inserting in lieu thereof "(including appropriate allied health personnel)", and

(C) by inserting ", training and clinical skills improvement" before "activities" in clause (D) of paragraph (1).

(2) Section 318(c) is further amended (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), (4), and (5), respectively.

GENETIC DISEASES

Sec. 205. (a) Section 402 of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act is amended by striking out all following "diseases," and substituting "and genetic conditions, such as Sickle Cell anemia, Cooley's Anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or genetically caused mental disorders.".

42 USC 300b note.

(b) Section 1101(a) is amended by inserting "plan," after "projects to" in paragraph (1).

42 USC 300b.

42 USC 300b-3.

(c)(1) Section 1104(a) is amended by inserting the following before the period at the end of the first sentence: ", including assurances for an evaluation whether performed by the applicant or by the Secretary. Such grant or contract may be made available on less than a statewide or regional basis".

(2) Section 1104 is amended by adding at the end thereof the following new subsection:

42 USC 300b.

"(d) In making any grant or entering into any contract under section 1101 the Secretary shall have developed a procedure under which persons from among members of the general public and from among leading medical or scientific authorities (acting as an advisory group, task force, or other entities appointed by the Secretary) knowledgeable about genetic diseases or conditions will have the opportunity on a regular basis to make recommendations to the Secretary.".

(d)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

42 USC 300b-6.

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

Grants or contracts.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(e)(1) Section 1101(b) is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$17,500,000 for the fiscal year ending September 30, 1979, $21,500,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

HEMOPHILIA

42 USC 300c-21.

SEC. 206. (a) Section 1131(f) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "$4,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981".

42 USC 300c-22.

(b) Section 1132(e) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

Grants.
Ante, p. 3562.

SEC. 207. (a) Part D of title III (as amended by section 113(a) of this Act) is amended by inserting after subpart II the following:

"Subpart III—Home Health Services

"HOME HEALTH SERVICES

42 USC 255.
42 USC 1395x.

"SEC. 339. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies. Demonstration projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

Applications.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

Appropriation authorization.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.

Grants and contracts.

"(b)(1) The Secretary may make grants to and enter into contracts with public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

Applications.

"(2) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Appropriation authorization.

"(4) There are authorized to be appropriated for grants under this subsection $1,500,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,500,000 for the fiscal year ending September 30, 1981.".

Repeal.
42 USC 1395x note.

(b) Effective October 1, 1978, section 602 of Public Law 94-63 is repealed.

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

Ante, p. 3578.

SEC. 208. (a) Part A of title III is amended by adding after section 315 (added by section 203 of this Act) the following new section:

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

Grants.
42 USC 247a.

"SEC. 316. (a) (1) (A) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs. The Secretary may also make such grants to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

"(B) Each program for which a grant is made under this subsection shall afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

Definitions.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalence of lead-based paint poisoning among children;

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental lead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"Units of general local government."

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdivisions of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, the territories and possessions of the United States.

Followup programs described in subparagraph (A)(iii) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.

Grant applications.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

42 USC 300m-3.

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

No grant may be made under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

Recordkeeping.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit, authority.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

Report to Congress.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

Appropriation authorization.

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981.".

Repeals.
42 USC 4801, 4811, 4844, 4845.
42 USC 4846.

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

Study.
42 USC 247a note.
Report to Congress.

SEC. 209. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

42 USC 300d-2.

SEC. 210. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

42 USC 300d-3.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

42 USC 300d-5.

(c) Subparagraph (B) of section 1206(b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

42 USC 300d-1, 300d-4.
42 USC 300d-6.

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

Establishment.
42 USC 289d note.

SEC. 211. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scientific, behavioral, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of children and expectant mothers in the United States;

(B) develop a comprehensive national pl[illegible] for achieving these goals and otherwise promoting the he[illegible] children in the United States; and

Report to Secretary and congressional committees.

(C) transmit to the Secretary, to the Co[illegible]ee on Interstate and Foreign Commerce of the House of [illegible]entatives, and to the Committee on Human Resources of [illegible]ate, not later than eighteen months after the date of th[illegible]ment of this Act, a report detailing the comprehensive na[illegible]plan it has developed and recommendations for such ad[illegible]ative, legislative, and other actions as it deems appropria[illegible]implement this plan and to otherwise promote the health of children in the United States.

National plan.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies, the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

Membership.

(c)(1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, dental, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

Term of office.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

Compensation.

5 USC 5332 note.

(4) Each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e)(1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees as it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b)(1)(C).

Appropriation authorization.

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

TITLE III—REVIEW

REVIEW

42 USC 300a-29.
42 USC 300l-2, 300m-3.

Sec. 301. A grant or contract made under this Act shall be considered, for purposes of sections 1513(e) and 1524(c)(6) of the Public Health Service Act, to be a grant or contract made under that Act.

TITLE IV—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

42 USC 247b-1.

Sec. 401. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs in both rural and urban areas for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981, and on January 1 of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program.

Report to congressional committees.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982.

Appropriation authorization.

SEC. 402. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking and the use of alcoholic beverages among children and adolescents. Such a program shall include—

Smoking and alcoholic beverages program.
42 USC 247b-2.

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking and the use of alcoholic beverages among children and adolescents, with special emphasis on children aged twelve or below; and

(2) grants to States or political subdivisions of States to assist them in meeting the costs of demonstrations and evaluations of community or school-based programs designed to deter smoking and the use of alcoholic beverages among children and adolescents.

(b) With respect to grants under paragraph (a)(2) the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317.

Ante, p. 3574.

(c)(1) For the purpose of making payments for the undertaking or support of research under paragraph (a)(1), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

Appropriation authorization.

(2) For the purpose of making payments under paragraph (a)(2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981.

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide; and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

Study.
42 USC 287b note.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action.

Report to Congress.

SEC. 404. (a) The Secretary, acting through the National Center for Health Statistics, shall submit to Congress on December 1, 1980, and on December 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the

National disease prevention data profile, submittal to Congress.
42 USC 242p.

prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventable diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

42 USC 242k, 242m.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

TITLE V—OFFICE OF PHYSICAL FITNESS AND SPORTS MEDICINE

ESTABLISHMENT OF OFFICE

SEC. 501. Section 1706 of the Public Health Service Act (42 U.S.C. 3000–3005) is amended to read as follows:

"OFFICE OF HEALTH INFORMATION, HEALTH PROMOTION AND PHYSICAL FITNESS AND SPORTS MEDICINE

42 USC 300u–5.

"SEC. 1706. (a) The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information, Health Promotion and Physical Fitness and Sports Medicine which shall—

"(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) coordinate its activities with similar activities of organizations in the private sector;

"(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

"(4) support projects, conduct research, and disseminate information in the areas of physical fitness and sports medicine.

"(b) The Office shall also—

"(1) assist, and foster research, investigations, and model projects on the nature of physical fitness, the development of physical fitness, and the relation of physical fitness to health;

"(2) assist, and foster research and investigations into the utilization of sports medicine, the development of sports medicine techniques, and the application of sports medicine throughout organized systems of athletic competition and in personal physical fitness development activities at every age and competition level;

"(3) foster and assist research into the proper role of nutrition in physical fitness programs;

"(4) promote the coordination of research and model programs conducted by the Office with similar programs conducted by other agencies of the Federal Government and other public and private organizations;

"(5) communicate the results of the studies in the widest possible manner to the American people and to special groups with particular interests and special needs in the development of physical fitness, such as young children, the handicapped, senior citizens, and workers in occupations which present special risks of physical disability; and

"(6) have a Director appointed by the Secretary.

"(c) The President's Council on Physical Fitness shall serve as the Advisory Body of the Office on all matters related to physical fitness. The activities of the Office and guidelines for the physical fitness programs supported by the Office shall be in conformance to guidelines developed by the President's Council on Physical Fitness.

SEC. 502. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"PROJECT GRANTS TO STATE COUNCILS ON PHYSICAL FITNESS FOR PHYSICAL FITNESS IMPROVEMENT

"SEC. 1707. (a) The Office may make grants to each State for the establishment by the Governor of a State Council on Physical Fitness or appropriate similar administrative unit. 42 USC 300u-6.

"(b) The State Council shall consist of at least fifteen members, chosen by the Governor to serve terms of four years, and appointed from among persons who have distinguished records in the areas of physical fitness, sports medicine, public health, athletic competition, education, labor, business management, and nutrition.

"(c) It shall be the duty of the State Council on Physical Fitness to—

"(1) promote the development of physical fitness with the assistance of local health and educational agencies, business, labor unions, health action and advocacy groups, religious, fraternal and social organizations, community based multiservice recreational agencies, and health maintenance organizations;

"(2) assess the physical fitness and nutrition status of residents of the State;

"(3) plan and administer a program of grants-in-aid to support physical fitness projects, research projects, and public information efforts to promote the development of physical fitness for the residents of the State;

"(4) evaluate and improve the availability and quality of sports medicine and athletic trainer programs in the State.

"(d) Each State shall be eligible for a grant under this section in an amount which is equal to not less than 1 per centum of the funds appropriated for the purposes of this section. The first $75,000 of grant funds to each State under this section shall not be made until an amount equal to the amount of the grant is made available to the State for the purposes of this section from non-Federal sources.

"(e) Funds made available for the purposes of this section shall not be used to supplant non-Federal funds.

"(f) Fifty per centum of the funds appropriated under section 503(d) of this Act shall be allocated for the purposes of this section.

42 USC 221.

"(g) In submitting an annual application for funds under this section the applicant must provide a description of all projects intended to be funded under subsection (c)(3).

"PROJECT GRANTS FOR PHYSICAL FITNESS IMPROVEMENT AND RESEARCH PROJECTS

42 USC 300u-7.

"SEC. 1708. (a) The Director of the Office may make grants or enter into contracts with public or private entities to conduct research and establish model projects with regard to improvement of physical fitness.

"(b) Projects encompassed under this section may encompass—

"(1) entire small communities, both urban and rural,
"(2) educational settings for a variety of age groups,
"(3) occupational settings,
"(4) groups of handicapped individuals, and
"(5) groups of senior citizens.

Appropriation authorization.

"(d) There are authorized to be appropriated for the purposes of section 1707, section 1706, and this section $6,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981.

"NATIONAL PROGRAM ON SPORTS MEDICINE RESEARCH

42 USC 300u-8.

"SEC. 1709. (a) The Office shall establish a program of project grants to conduct research into the problem of athletic injuries with specific concentration on frequency of injuries, seriousness of injuries, the development of training and conditioning techniques and the development of athletic protective equipment to enable participants to avoid injuries to the maximum extent feasible, recovery rates, and problems associated with full recovery from athletic injuries.

Clearinghouse.

"(b) The Office shall, in cooperation with the President's Council on Physical Fitness, establish a Clearinghouse on Sports Medicine Research to disseminate the results of that research to practitioners in relevant fields of health care and physical fitness.

Appropriation authorization.

"(c) There are authorized to be appropriated to carry out the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, and $1,500,000 for the fiscal year ending September 30, 1981.

"CONFERENCE ON EDUCATION IN LIFETIME SPORTS

42 USC 300u-9.

"SEC. 1710. (a) The Office and the Office of Education of the Department of Health, Education, and Welfare shall conduct a joint conference during 1979 on the teaching and support of educational programs in lifetime sports by secondary and postsecondary educational institutions.

"(b) The purpose of the Conference shall be to explore current programs on lifetime sports within these institutions and to support the expansion of such educational programs in other institutions of secondary and postsecondary education.".

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

Adolescent pregnancies. 42 USC 300a-21.

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low-birth-weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing schooling; a greater likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefor should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

(b) Therefore, the purposes of this Act are—

(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

(2) to expand the availability of such services that are essential to that objective; and

(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services.

DEFINITIONS

42 USC 300a-22.

SEC. 602. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(2) "eligible person" means—

(A) with regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of the services described in paragraphs (4)(A), (4)(B), and (4)(G) and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) "eligible grant recipient" means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network through which all core services would be provided;

(4) "core services" means those services which shall be provided by all grantees which are—

(A) pregnancy testing, maternity counseling, and referral services;

(B) family planning services, except that such services for nonpregnant adolescents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

(C) primary and preventive health services including pre- and post-natal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services in sexuality and family life (including sex education), and including family planning information;

(H) referral to appropriate educational and vocational services;

(I) adoption counseling and referral services; and

(J) referral to other appropriate health services.

(5) "supplemental services" means those services which may be provided and are—

(A) child care sufficient to enable the adolescent parent to continue her education or to enter into employment;

(B) consumer education and homemaking;

(C) counseling for extended family members of the eligible person;

(D) transportation; and

(E) such other services consistent with the purposes of this Act as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(6) "adolescent parent" means a parent under the age of 21.

AUTHORITY TO MAKE GRANTS

42 USC 300a-23.

42 USC 291f.

SEC. 603. The Secretary may make grants to further the purposes of this Act to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 606 for projects which the Secretary determines will help communities provide core and supplemental services in easily accessible locations, assure a continuity of services and appropriate assistance, and coordinate, integrate, and establish linkages among such services. Projects shall, as appropriate, provide, supplement, or improve the quality of such services, and in providing services, give primary emphasis to adolescents who are 17 years of age or under and are pregnant or who are parents.

USES OF GRANTS

SEC. 604. (a) Funds provided under this Act may be used by grantees only to— 42 USC 300a–24.

(1) provide core services to eligible persons;

(2) coordinate, integrate, and provide linkages among providers of core, supplemental, and other services for eligible persons in furtherance of the purposes of this Act;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention and pregnancy-related services for adolescents (including family life and sex education), which will further the objectives of this Act; and

(5) fulfill assurances required for grant approval by section 606.

(b) Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 606, which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services. 42 USC 291f.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 605. (a) In approving applications for grants under this Act, the Secretary shall give priority to applicants who— 42 USC 300a–25.

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;

(3) show evidence of having the ability to bring together a wide range of needed care and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;

(4) will utilize to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and

(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the project.

(b)(1) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services.

Limitation.

(c)(1) A grantee may not receive funds under this Act for a period in excess of 5 years.

(2) Subject to paragraph (3), a grant made under this Act may not exceed 70 percent of the costs of a project assisted under this Act for the first and second years of the project. In each year succeeding the second year of the project the amount of the Federal grant under this Act shall decrease by no less than 10 percent of the amount of the Federal grant under this Act in the preceding year.

Waiver.

(3) The Secretary may waive the limitation specified in paragraph (2) in any year in accordance with criteria established by regulation.

REQUIREMENTS FOR GRANT APPROVAL

42 USC 300a-26.

SEC. 606. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention and pregnancy-related services (including family life and sex education), and including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of how all of the core services will be provided in the project using funds under this Act or otherwise provided by the grantee, to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how

access and appropriate referral to those services (such as medicaid; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided including a description of the plan to coordinate such services with activities funded under this Act;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived, together with assurances that the applicant will make every reasonable effort to collect reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program;

(8) a description of the grantee's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(9) a description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, of the proposed use of the funds provided under a grant provided under this Act and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) assurances that the applicant will have an ongoing quality assurance program;

(12) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(13) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(14) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement; 42 USC 1396.

(15) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program; 42 USC 701.

(16) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under title XX of the Social Security Act; 42 USC 1397.

(17) assurances that the applicant (A) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (B) has made and will continue to make every reasonable effort (i) to secure from patients payment for services in accordance with such schedules, and (ii) to collect reimbursement for health or other services on the basis of the full amount of fees and payments for such services without application of any discount, and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

(18) assurances that the applicant will make maximum use of funds available under title X of the Public Health Service Act; 42 USC 300.

(19) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(20) assurances that fees collected by the applicant for services rendered in accordance with this Act shall be used by the applicant to further the purposes of this Act;

(21) assurances that unemancipated minors requesting services from the applicant will be encouraged, whenever feasible, to consult with their parents with respect to such services;

(22) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options, regarding her pregnancy;

(23) assurances that primary emphasis for services paid for with funds under this Act shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means; and

(24) assurances that funds received under this Act shall not supplant funds received from any other Federal, State, or local program or any private sources of funds.

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

(c) The Secretary shall provide the Governor of each State copies of applications received for grants under this Act from applicants within such State. The Governor shall have a period of 60 days from receipt of such copies to review and submit comments to the Secretary.

(d) No application submitted for a grant under this Act may be approved unless the Secretary is satisfied that core services shall be available through the grantee within a reasonable time after such grant is received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980 and $75,000,000 for the fiscal year ending September 30, 1981.

42 USC 300a-27.

FUND RESTRICTION

SEC. 608. No funds for grants made under the provisions of this Act may be used for payment for the performance of an abortion.

42 USC 300a-28.

TITLE VII—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 701. (a) The Secretary shall coordinate, consistent with provisions of other Federal law respecting coordination of such policies and programs, Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall—

42 USC 300a-41.

(1) require that grantees under title VI report periodically on Federal, State, and local programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents;

42 USC 291.

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the State and local level will be facilitated;

(3) recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing Federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related services.

(b) A State using funds provided under title VI to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title VI.

(c) The Secretary shall set aside, in each fiscal year, not less than 1 per centum nor more than 3 per centum of the funds appropriated under this Act for evaluation of activities under titles VI and VII and shall designate a program unit to carry out such evaluations, which shall be a program unit other than the unit having primary administrative responsibility for carrying out the grant program authorized by this Act. The Secretary shall submit to the appropriate committees of the Congress, not later than February 1, 1981, and periodically thereafter copies of summaries of all such evaluations.

42 USC 292.

(d) The program unit responsible for carrying out the activities under titles VI and VII shall report directly to the Assistant Secretary for Health in consultation and in coordination with the Deputy Assistant Secretary for Population Affairs.

TITLE VIII—STUDY OF ADOLESCENT PREGNANCY

Contract authority.
42 USC 300a–21 note.

SEC. 801. (a) The Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies. The study shall evaluate the effectiveness of existing programs relating to health, education, and public welfare, as they relate to this problem, and shall include suggestions as to the most effective means for reducing or eliminating unwanted adolescent pregnancies. The Secretary shall report the results of such study to the Congress not later than one year after the date of the enactment of this Act.

Report to Congress.

Appropriation authorization.

(b) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95–1191 accompanying H.R. 12370 (Comm. on Interstate and Foreign Commerce) and No. 95–1799 (Comm. of Conference).
SENATE REPORT No. 95–860 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
- Sept. 25, H.R. 12370 considered and failed of passage in House.
- Sept. 29, considered and passed Senate.
- Oct. 11, 13, H.R. 12370 considered and passed House; passage vacated, and S. 2474, amended, passed in lieu.
- Oct. 15, Senate and House agreed to conference report.

Public Law 95-627
95th Congress

An Act

To extend and amend the special supplemental food program and the child care food program, and for other purposes.

Nov. 10, 1978
[S. 3085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Amendments of 1978".

Child Nutrition Amendments of 1978.
42 USC 1771 note.

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

42 USC 1766.
"Institution."
Guidelines.
Eligibility.

"(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

42 USC 1397.

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of an effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

42 USC 1771 note.

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

42 USC 1779.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

42 USC 1758.

"(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

42 USC 1773.

"(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act, and the national average payment rate for free lunches under section 11 of this Act; and

42 USC 1759a.

"(C) (i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

National average payment rate.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A) (i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B) (i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act

42 USC 1754.

and the national average payment rate for reduced-price lunches under section 11 of this Act; and

42 USC 1759a.

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

National average payment rate.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

42 USC 1758.

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

42 USC 1773.

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the national average payment rate for lunches under section 4 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

National average payment rate.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f)(3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii)(I) the number of lunches and suppers served by

42 USC 1754.

(II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and

"(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection;

42 USC 1758.

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

42 USC 1773.

"(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

42 USC 1759a.

"(ii) (I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act;

"(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

"(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i) (I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii) (I) the number of lunches and suppers served to such children by (II) the national average payment rate for lunches under section 4 of this Act; and

"(iii) (I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

"(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection (f) (4) of this section.

26 USC 1 *et seq.*

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

Notification.

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

Hearing.

"(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

Notification.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c) (1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing such meals.

Maximum per meal reimbursement rates.

"(3) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on (A) the national average payment rates for lunches under section 4 of this Act; (B) the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; (C) the national average payment rates for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and (D) the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

42 USC 1758.

42 USC 1773.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

Administrative expenses, reimbursement.

Advance payments.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

Agricultural commodities.

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting: 42 USC 1759a.

"(1) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

"(3) the action program, the State proposes to undertake to use the Federal funds provided under this section, including the State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family or group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measure progress in achieving program goals.

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

Regulations.

"(k) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

Studies.

"(l)(1) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels of administrative payments that reflect the costs of institutions participating in the program.

"(2) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

"(3) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"(4) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (1), (2), and (3) of this subsection. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

Report and recommendations to Congress.

"(m) In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

Equipment assistance.

"(n)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

Allocation.

"(2) If any State cannot use all of the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

Criteria.

"(3) Each State shall establish criteria for determining institutions that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within thirty days of notification by the Secretary to the State of the amount of funds available under this subsection, the State shall

Standards.

notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this subsection.

Regulations.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all the requirements for participation under this section, except for the licensing requirements, and (B) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this section.

42 USC 1397.

"(o) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

"(p) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

Recordkeeping.

Inspection and audit.

"(q) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

Appropriation authorization.

"(r) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM

42 USC 1786.

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

Definitions.

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to six months after termination of pregnancy.

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"(11) 'Pregnant women' means women determined to have one or more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"(c)(1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

"(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

Regulations.

7 USC 612c note, 1307 note.

Program participation.

"(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

Income eligibility.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school meals under section 9 of the National School Lunch Act.

42 USC 1758.

Certification.

"(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

Nutrition education.

"(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

Training.

Evaluation.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

State operation and administration plan, submittal to Secretary of Agriculture.

"(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section.

The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

7 USC 612c note.

Hearings.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

Eligible migrants.

"(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

Recordkeeping.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

Notification.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval.

Notification.

Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

Notification.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas.

Hearing.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

Standards.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

Regulation.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

"(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

Appropriation authorization.

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

Administrative funds, allocation.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

Guidelines.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

Report.

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

National Advisory Council on Maternal, Infant, and Fetal Nutrition, establishment, membership.
7 USC 612c note, 1307 note.

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the 'Council') composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

Terms.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

Study.

Report to the President and Congress.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

Assistance.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

Travel and subsistence expenses, reimbursement.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

7 USC 1431.
7 USC 612c.

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.".

REDUCED-PRICE REIMBURSEMENTS

42 USC 1759a.

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater".

USING COMMODITY PRICES FOR COMMODITY INDEXES

42 USC 1772.

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1966 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk" and by amending the fifth sentence thereof to read as follows: "Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request.".

42 USC 1755.

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.".

42 USC 1759a.

(c) Section 11(a) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

42 USC 1761.

(d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

42 USC 1760.

SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end thereof a new subsection (h) as follows:

42 USC 1771 note.

"(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.".

Equipment Assistance

42 USC 1774.

(b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out "$40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) to read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in lieu thereof "that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program";

(5) striking out "without the facilities to prepare and cook hot meals or receive hot meals" all other times that phrase appears in subsection (e) and inserting in lieu thereof "moving toward the initiation of the service of breakfasts"; and

(6) striking out "33⅓" in subsection (e) and inserting in lieu thereof "40".

Especially Needy

42 USC 1773.

(c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

ALTERNATE FOODS

(d) The Secretary shall not limit or prohibit, during the school year 1978-79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978-79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification.

42 USC 1773 note.

Notification.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

42 USC 1776.

42 USC 1754, 1759a, 1766.
42 USC 1772-1774.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

42 USC 1751 note.
42 USC 1761, 1766.
***Ante*, p. 3611.**

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

42 USC 1751 note.
Ante, p. 3611.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

42 USC 1761.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

"(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

42 USC 1761.

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.".

INCOME POVERTY GUIDELINES

42 USC 1758.

SEC. 8. Section 9(b)(1) of the National School Lunch Act is amended by—

(1) amending the second sentence to read as follows: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977

Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY OF MENU CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"STUDY OF MENU CHOICE

42 USC 1769c.

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.".

MISCELLANEOUS PROVISIONS

42 USC 1760.

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

42 USC 1754, 1759a.
42 USC 1773.

Penalty.

42 USC 1771 note.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"School year."

"(7) 'School year' means the annual period from July 1 through June 30.".

42 USC 1784.

(c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

42 USC 1757.

(d)(1) Section 8 of the National School Lunch Act is amended by inserting after the second sentence the following new sentence: "The terms 'child' and 'children' as used in this Act shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.".

Ante, p. 3611.

42 USC 1761.

(2) Section 13(a)(1)(D)(ii) of the National School Lunch Act is amended by inserting "or nonprofit private" after "public".

"Child" or "children."
42 USC 1784.
Ante, p. 3611.

(3) Section 15 of the Child Nutrition Act of 1966 is amended by adding at the end thereof a new subsection as follows:

"(f) Except as used in section 17 of this Act, the terms 'child' and 'children' as used in this Act, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped.".

SCHOOL LUNCH PROGRAM PILOT PROJECTS

42 USC 1769.

SEC. 11. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in not more than fourteen school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

Reimbursement.

"(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

42 USC 1758.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection not later than six months after the conclusion of such projects.

Report to congressional committees.

"(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

Appropriation authorization.

42 USC 1754, 1759a.

PURCHASES OF SEAFOOD PRODUCTS FOR SCHOOL LUNCHES

SEC. 12. (a) Section 6(e) of the National School Lunch Act is amended by inserting in the second sentence "(which may include domestic seafood commodities and their products)" after "alternatives".

42 USC 1755.

(b) Section 14(a)(1) of the National School Lunch Act is amended by inserting "(which may include domestic seafood commodities and their products)" after "such section".

42 USC 1762a.

IMPLEMENTATION

SEC. 13. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within one hundred and twenty days of the date of enactment of this Act.

Regulations.
42 USC 1786 note.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

Ante, pp. 3603, 3611.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective Janary 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979, except that the

42 USC 1755 note.

Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 1979.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1153 accompanying H.R. 12511, Pt. I (Comm. on Education and Labor) and Pt. II (Comm. on Appropriations).
SENATE REPORTS: No. 95-884 (Comm. on Agriculture, Nutrition, and Forestry) and No. 95-1020 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 21, considered and passed Senate.
Oct. 10, H.R. 12511 considered in House.
Oct. 15, considered and passed House, amended.
Oct. 15, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 10, Presidential statement.

Public Law 95-628
95th Congress

An Act

To revise miscellaneous timing requirements of the revenue laws, and for other purposes.

Nov. 10, 1978
[H.R. 7320]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et. seq.*

SEC. 2. PERIOD FOR PAYMENT TO QUALIFY FOR DEDUCTIBILITY OF CERTAIN EXPENSES PAID TO RELATED TAXPAYERS.

26 USC 267.

(a) Amendment of Section 267.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(e) Rule Where Last Day of 2½ Month Period Falls on Sunday, Etc.—For purposes of subsection (a) (2)—

"(1) where the last day of the 2½ month period falls on Saturday, Sunday, or a legal holiday, such last day shall be treated as falling on the next succeeding day which is not a Saturday, Sunday, or a legal holiday, and

26 USC 7503.

"(2) the determination of what constitutes a legal holiday shall be made under section 7503 with respect to the payor's return of tax under this chapter for the preceding taxable year."

26 USC 267 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to payments made after the date of the enactment of this Act.

SEC. 3. INCREASE IN BASIS FOR AMOUNT OF GAIN RECOGNIZED TO THE DISTRIBUTING CORPORATION.

26 USC 301.

(a) Amount Distributed.—Clause (ii) of section 301(b)(1)(B) (relating to amount distributed in the case of corporate distributees) is amended to read as follows:

"(ii) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain recognized to the distributing corporation on the distribution."

(b) Basis.—Subparagraph (B) of section 301(d)(2) (relating to basis in case of corporate distributees) is amended to read as follows:

"(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain recognized to the distributing corporation on the distribution."

26 USC 312.

(c) Effect on Earnings and Profits.—Paragraph (3) of section 312(c) (relating to adjustments for liabilities, etc.) is amended to read as follows:

"(3) any gain recognized to the corporation on the distribution."

26 USC 301 note.

(d) Effective Date.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act.

SEC. 4. 60-DAY EXTENSION OF 12-MONTH PERIOD UNDER SECTION 337 WHERE THERE IS INVOLUNTARY CONVERSION.

26 USC 337.

(a) Amendment of Section 337.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Involuntary Conversions.—If—

26 USC 1033.

"(1) there is an involuntary conversion (within the meaning of section 1033) of property of a distributing corporation and there is a complete liquidation of such corporation which qualifies under subsection (a),

"(2) the disposition of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E)) occurs during the 60-day period which ends on the day before the first day of the 12-month period, and

"(3) such corporation elects the application of this subsection at such time and in such manner as the Secretary may by regulations prescribe,

then for purposes of this section such disposition shall be treated as a sale or exchange occurring within the 12-month period."

26 USC 337 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to dispositions of the converted property (within the meaning of clause (ii) of section 1033(a)(2)(E) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act in taxable years ending after such date.

SEC. 5. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

26 USC 1372.

(a) Amendment of Section 1372(c).—Subsection (c) of section 1372 (relating to where and how subchapter S election may be made) is amended to read as follows:

"(c) When and How Made.—

"(1) In general.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) Treatment of certain late elections.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as having been made for the following taxable year.

"(3) Manner of making election.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations.".

(b) Technical Amendments.—

(1) Section 1372(e)(1)(A) (relating to termination in the case of new shareholders) is amended to read as follows:

"(A) an election under subsection (a) made by a small business corporation shall terminate if any person who is not a shareholder in such corporation on the day on which the election was made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquired the stock.".

(2) The last sentence of section 1372(a) (relating to eligibility for election by a small business corporation) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.". 26 USC 1372.

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would have taken effect)" after "in the corporation".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to elections made more than 60 days after the date of the enactment of this Act for taxable years beginning more than 60 days after such date of enactment. 26 USC 1372 note.

(d) Retroactive Application of "Preceding Taxable Year" Amendment.— 26 USC 1372 note.

(1) In general.—If—

(A) a small business corporation has treated itself in its return as an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1954 for any taxable year beginning before the date 60 days after the date of the enactment of this Act (hereinafter in this subsection referred to as the "election year"),

(B) such treatment was pursuant to an election which such corporation made during the taxable year immediately preceding the election year and which, but for this subsection, would not be effective, and

(C) at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe by regulations—

(i) such corporation makes an election under this paragraph, and

(ii) all persons (or their personal representatives) who were shareholders of such corporation at any time beginning with the first day of the election year and ending on the date of the making of such election consent to such election, consent to the application of the amendment made by subsection (a), and consent to the application of paragraph (3) of this subsection,

then paragraph (1) of the first sentence of section 1372(c) of such Code (as amended by subsection (a)) shall apply with respect to the taxable years referred to in paragraph (2) of this subsection.

(2) Years to which amendment applies.—In the case of an election under paragraph (1) by any corporation, the taxable years referred to in this paragraph are—

(A) the election year,

(B) all subsequent taxable years of such corporation, and

(C) in the case of each person who was a shareholder of such corporation at any time during any taxable year described in subparagraph (A) or (B)—

(i) the first taxable year of such person ending with or within a taxable year described in subparagraph (A) or (B), and

(ii) all subsequent taxable years of such person.

(3) Statute of limitations for assessment of deficiency.— If the assessment of any deficiency in income tax resulting from

the filing of an election under paragraph (1) for a taxable year ending before the date of such filing would be prevented, but for the application of this paragraph, before the expiration of one year after the date of such filing by any law or rule of law, then such deficiency (to the extent attributable to such election) may be assessed at any time before the expiration of such one-year period notwithstanding any law or rule of law which would otherwise prevent such assessment.

SEC. 6. TIME FOR FILING INCOME TAX RETURNS IN THE CASE OF ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).

26 USC 6072.

(a) AMENDMENT OF SECTION 6072.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end thereof the following new subsection:

26 USC 501.

26 USC 401.

"(e) ORGANIZATIONS EXEMPT FROM TAXATION UNDER SECTION 501(a).—In the case of an income tax return of an organization exempt from taxation under section 501(a) (other than an employees' trust described in section 401(a)), a return shall be filed on or before the 15th day of the 5th month following the close of the taxable year."

26 USC 6072 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 7. PERIOD FOR DETERMINING WHETHER A TAXPAYER IS A FARMER OR FISHERMAN FOR PURPOSES OF THE ESTIMATED TAX.

26 USC 6073.

(a) AMENDMENT OF SECTION 6073(b).—Subsection (b) of section 6073 (relating to time for filing declaration of estimated tax in case of farmers and fishermen) is amended to read as follows:

26 USC 6015.

"(b) FARMERS OR FISHERMEN.—Declarations of estimated tax required by section 6015 from any individual—

"(1) whose estimated gross income from farming or fishing (including oyster farming) for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, or

"(2) whose gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least two-thirds of the total gross income from all sources shown on such return,

may, in lieu of the time prescribed in subsection (a), be filed at any time on or before January 15 of the taxable year succeeding the taxable year."

26 USC 6073 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to declarations of estimated tax for taxable years beginning after the date of the enactment of this Act.

SEC. 8. PERIOD OF LIMITATIONS FOR CREDIT OR REFUND WITH RESPECT TO CERTAIN CARRYBACKS.

26 USC 6511.

(a) NET OPERATING LOSS OR CAPITAL LOSS CARRYBACKS.—Subparagraph (A) of section 6511(d)(2) (relating to special period of limitation with respect to net operating loss or capital loss carrybacks) is amended by striking out "with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of" and inserting in lieu thereof "3 years after the time prescribed by law for filing the return (including extensions thereof) for".

(b) INVESTMENT CREDIT AND OTHER CREDIT CARRYBACKS.—

(1) Paragraph (4) of section 6511(d) (relating to special period of limitation with respect to investment credit carrybacks) is amended to read as follows:

"(4) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO CERTAIN CREDIT CARRYBACKS.—

"(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the unused credit which results in such carryback (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, the period shall be that period which ends 3 years after the time prescribed by law for filing the return, including extensions thereof, for such subsequent taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment of tax attributable to a credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to any credit, and the effect of such credit, to the extent that such credit is affected by a credit carryback which was not in issue in such proceeding. 26 USC 7122.

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any investment credit carryback, work incentive program credit carryback, and new employee credit carryback."

(2) Subsection (d) of section 6511 is amended— 26 USC 6511.

(A) by striking out paragraphs (7) and (9), and

(B) by redesignating paragraph (8) as paragraph (7).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 6501.— 26 USC 6501.

(A) Subsection (j) of section 6501 (relating to investment credit carrybacks) is amended to read as follows:

"(j) CERTAIN CREDIT CARRYBACKS.— 26 USC 6501.

"(1) IN GENERAL.—In the case of a deficiency attributable to the application to the taxpayer of a credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(3)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for 26 USC 6213.

the taxable year of the unused credit which results in such carryback may be assessed, or with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

"(2) Credit carryback defined.—For purposes of this subsection, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)." 26 USC 6511.

(B) Subsection (m) of section 6501 (relating to tentative carryback adjustment assessment period) is amended by striking out "subsection (h), (j), (o), or (p)" each place it appears and inserting in lieu thereof "subsection (h) or (j)".

26 USC 6501. (C) Section 6501 is amended by striking out subsections (o) and (p).

26 USC 6601. (2) Amendments of section 6601.—

(A) Paragraph (2) of section 6601(d) (relating to investment credit carryback) is amended to read as follows:

"(2) Certain credit carrybacks.—

"(A) In general.—If any credit allowed for any taxable year is increased by reason of a credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

"(B) Credit carryback defined.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (d) of section 6601 is amended by striking out paragraphs (4) and (5).

26 USC 6611. (3) Amendments of section 6611.—

(A) Paragraph (3) of section 6611(f) (relating to investment credit carryback) is amended to read as follows:

"(2) Certain credit carrybacks.—

"(A) In general.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a credit carryback, such overpayment shall be deemed not to have been made before the close of the taxable year in which such credit carryback arises, or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made before the close of such subsequent taxable year.

"(B) Credit carryback defined.—For purposes of this paragraph, the term 'credit carryback' has the meaning given such term by section 6511(d)(4)(C)."

(B) Subsection (f) of section 6611 is amended by striking out paragraphs (4) and (5).

26 USC 6511 note. (d) Effective Date.—The amendments made by this section shall apply to carrybacks arising in taxable years beginning after the date of the enactment of this Act.

SEC. 9. STAY OF COLLECTION OF PENALTY UNDER SECTION 6672 WHERE BOND IS FILED.

(a) In General.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by striking out "Any person" and inserting in lieu thereof "(a) General Rule.—Any person" and by adding at the end thereof the following new subsection:

26 USC 6672.

"(b) Extension of Period of Collection Where Bond is Filed.—

"(1) In general.—If, within 30 days after the day on which notice and demand of any penalty under subsection (a) is made against any person, such person—

"(A) pays an amount which is not less than the minimum amount required to commence a proceeding in court with respect to his liability for such penalty,

"(B) files a claim for refund of the amount so paid, and

"(C) furnishes a bond which meets the requirements of paragraph (3),

no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

26 USC 7421.

"(2) Suit must be brought to determine liability for penalty.—If, within 30 days after the day on which his claim for refund with respect to any penalty under subsection (a) is denied, the person described in paragraph (1) fails to begin a proceeding in the appropriate United States district court (or in the Court of Claims) for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the 30-day period referred to in this paragraph.

"(3) Bond.—The bond referred to in paragraph (1) shall be in such form and with such sureties as the Secretary may by regulations prescribe and shall be in an amount equal to 1½ times the amount of excess of the penalty assessed over the payment described in paragraph (1).

"(4) Suspension of running of period of limitations on collection.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

26 USC 6502.

"(5) Jeopardy collection.—If the Secretary makes a finding that the collection of the penalty is in jeopardy, nothing in this subsection shall prevent the immediate collection of such penalty."

(b) Technical Amendments.—

(1) Subsection (a) of section 7421 is amended by inserting "6672(b), 6694(c)," after "6213(a),".

26 USC 7421.

(2) Subsection (a) of section 7103 is amended by inserting after paragraph (3) the following new paragraph:

26 USC 7103.

"(4) For a bond to stay collection of a penalty assessed under section 6672, see section 6672(b)."

(c) Effective Date.—The amendments made by this section shall apply with respect to penalties assessed more than 60 days after the date of the enactment of this Act.

26 USC 6672 note.

SEC. 10. TEMPORARY SUSPENSION OF DUTY ON IMPORTS OF INSULATION.

19 USC 1202 app.

(a) In General.—Subpart B of part 1 of the appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 907.20 the following new item:

" 907.40	Boric acid (provided for in item 416.10, part 2B, schedule 4)........	Free	No change	On or before 6/30/79 ".

(b) Such subpart B is amended by inserting before item 911.00 the following new items:

" 909.10	Mineral wool, in bulk, or in batts, blankets, or similar forms, whether or not lined, backed, or supported with paper, paperboard, or similar materials (provided for in item 522.81, par 1J schedule 5)........	Free	No change	On or before 6/30/79
909.30	Glass fibers in bulk; glass fibers in the form of mats, batts, blankets, felts, pads, casings, and boards, all the foregoing, of a density not over 4 pounds per cubic foot, whether or not coated, impregnated, or bonded with glue, plastics, or other substances, or lined, backed, or supported with paper, paperboard, fabrics or similar materials, or with metal mesh or foil (provided for in item 540.71, part 3A, of schedule 5)........	Free	No change	On or before 6/30/79 ".

19 USC 1202 app. note.

(c) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 11. FONDATION JOSÉE ET RENÉ DE CHAMBRUN.

26 USC 2501 *et seq.*
26 USC 2001 *et seq.*
26 USC 2522, 2106.

For the purpose of determining the liability for tax of Josée or René Chambrun, citizens of France, under chapter 12 of the Internal Revenue Code of 1954, and for the purpose of determining the liability for tax of the estate of the said Josée or René de Chambrun under chapter 11 of such Code, the Fondation Josée et René de Chambrun, Paris, France, shall be treated as if it were an organization described in sections 2522(b)(2) and 2106(a)(2)(A)(ii) of such Code, respectively.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-645 (Comm. on Ways and Means).
SENATE REPORT No. 95-797 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Nov. 1, considered and passed House.
Vol. 124 (1978): Aug. 23, considered and passed Senate, amended.
Oct. 10, House concurred in certain Senate amendments, in others with amendments, and disagreed to Senate amendment No. 7.
Oct. 14, Senate concurred in House amendments.

Public Law 95-629
95th Congress

An Act

To amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes.

Nov. 10, 1978
[S. 1829]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pennsylvania Avenue Development Corporation Act of 1972, amendment.
40 USC 871 note.

TITLE I

Sec. 101. The Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

Board of Directors.
40 USC 872.

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia;"; and by inserting "The Mayor" in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act;

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

40 USC 873.

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of Chapter 53";

40 USC 874.

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government.";

40 USC 877.

(f) in paragraph (b) of section 8: "Redevelopment Land Agency" wherever it occurs and by inserting in lieu thereof "government."

Powers of Corporation.
40 USC 875.

(2) by striking in paragraph (10) of section 6 of the figure "$50,000,000" and inserting in lieu thereof "$100,000,000" and by striking in that paragraph the following sentence: "The authority of the Corporation to issue obligations hereunder shall expire June 3, 1980, except that obligations may be issued at any time after the expiration of said period to provide funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period." and inserting in lieu thereof "The authority of the Corporation to issue obligations hereunder shall remain available without fiscal year limitation.".

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereon in the development area. If the title to the street, road, highway, or alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative expenses of the action. If the title to the street, road, highway, or alley so closed is not in the United States, the Mayor shall convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided*, That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

Real property, title transfers.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer agreement. The Director of the National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan.".

Appropriation authorization.
40 USC 885.

(4) By striking in subsection 17(a) all after the word "Corporation" and inserting in lieu thereof "$3,000,000 for the fiscal year ending September 30, 1979; $3,200,000 for the fiscal years ending September 30, 1980, and September 30, 1981; and $3,500,000 for the fiscal years ending September 30, 1982, and September 30, 1983."; and, by adding to subsection 17(b) after the amount "$38,800,000," the following: "for fiscal year 1979, $15,000,000, for fiscal year 1980, $35,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $30,000,000, and, for fiscal 1983, $35,000,000."; and by striking the following, "to remain available without fiscal year limitation through September 30, 1990:" and, by inserting in lieu thereof: "For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding years. Any amounts appropriated under this subsection shall remain available without fiscal year limitation.".

TITLE II

San Antonio Missions National Historical Park. Establishment.
16 USC 410ee.

Sec. 201. (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Boundary revisions, notice to congressional committees and publication in Federal Register.

Lands, acquisitions.

(b) For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

Cooperative agreements.

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided*, That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the constitutional provisions regarding the separation of church and state.

Submittal to Justice Department.

Use and occupancy right, retention.

(c)(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

"Improved property."

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

Administration.

San Antonio Missions Advisory Commission. Establishment. Membership.

(e) (1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b) (2);

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public.

Chairman.

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

Compensation and expenses.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses

incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

Consultation.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission in matters relating to the park and with respect to carrying out the provisions of this section.

Termination.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

Appropriation authorization.

(f)(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

Master plan, transmittal to congressional committees.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.

TITLE III

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section:

90 Stat. 1211.

Appropriations, availability. 90 Stat. 1214.

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"Excess funds."

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of—

90 Stat. 889. 90 Stat. 1415.

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later), but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

Definition.

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled 'Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures', May, 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

Funds distribution, consultation.

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

TITLE IV

Study, transmittal to President and congressional committees.
16 USC 1a-5 note.

SEC. 401. The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately ninety acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1544 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-743 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):
- **Apr. 24, considered and passed Senate.**
- **Oct. 14, considered and passed House, amended.**
- **Oct. 15, Senate concurred in House amendments with amendments; House concurred in Senate amendments.**

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
- **Nov. 10, Presidential statement.**

Public Law 95-630
95th Congress

An Act

To extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

Nov. 10, 1978
[H.R. 14279]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Financial Institutions Regulatory and Interest Rate Control Act of 1978".

Financial Institutions Regulatory and Interest Rate Control Act of 1978.
12 USC 226 note.

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

12 USC 226 note.

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

Civil penalty.
12 USC 504.
12 USC 375, 375a, 375b, 376, 503.
12 USC 371c.
Notice.
"Violates."

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Hearing opportunity.

"(b) In determining the amount of the penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file

Certification.

in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

12 USC 505.

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

Civil penalty.

"(j)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Certification.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(6) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting "(a)" immediately after "SEC. 5239." and by inserting at the end thereof the following new subsection:

Civil penalty.

"(b)(1) Any national banking association which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such association who violates any of the provisions of this chapter, or any regulation issued pursuant thereto, shall forfeit and pay a civil money penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.

"Violates."

"(2) In determining the amount of the penalty the Comptroller shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(3) The association or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The agency determination shall be made by final order which may be reviewed only as provided in subsection (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(4) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller. The Comptroller shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Comptroller shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(e) of title 5.

Certification.

"(5) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Comptroller may, in his discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under this section.

Regulations.

"(7) The Comptroller shall promulgate regulations establishing procedures necessary to implement this subsection.

"(8) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

12 USC 375b.

SEC. 104. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

Loan or extension of credit to executive officers, prohibitions.

"(h)(1) No member bank shall make any loan or extension of credit in any manner to any of its executve officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to any company controlled by such an executive officer or person, or to any political or campaign committee the funds or services of which will benefit such an executive officer or person or which is controlled by such an executive officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer or person and to all companies controlled by such executive officer or person and to all political or campaign committees the funds or services of which will benefit such executive officer or person or which are controlled by such executive officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended. For purposes of this paragraph, the provisions of section 5200 of the Revised Statutes, as amended, shall be deemed to apply to a State member bank as if such State member bank were a national banking association.

12 USC 84.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive, director, or person or which is controlled by such executive officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer, director, or person and to all companies controlled by such executive officer, director, or person and to all political or campaign committees the funds or services of which will benefit such executive officer, director, or person or which are controlled by such executive officer, director, or person, would exceed $25,000, unless such loan, line of credit, or extension of credit is approved in advance by a majority of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

Overdrafts.

"(4) No member bank may pay an overdraft on an account at such bank of an executive officer or director.

"(5) For purposes of this subsection, an executive officer, director, or person shall be considered to have control of a company if such executive officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

Definitions.

"(6) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

12 USC 371c.

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(F) the term 'executive officer' has the same meaning assigned such term under section 22(g) of this Act; and

12 USC 375a.

"(G) the term 'pay an overdraft on an account' means the payment by a member bank of an amount for an account holder in excess of the funds on deposit in the account and does not include a payment of funds by the member bank in accordance with either a written preauthorized, interest-bearing extension of credit specifying a method of repayment or a written preauthorized transfer of funds from another account of the account holder at that bank.

Rules and regulations.

"(7) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of

Rules.

this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 105. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

Bank holding company, termination. Notice, hearing opportunity.

12 USC 1464 note.

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

Enforcement and jurisdiction.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

Savings and loan holding company, termination. Notice, hearing opportunity.

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the

Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.".

Enforcement and jurisdiction.

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

Insured institutions, default prevention and restoration.

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of a contribution or guarantee shall not apply.".

Sec. 106. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "Sec. 8." as "Sec. 8. (a)" and by adding a new subsection (b) to read as follows:

Civil penalty.

Notice.

"Violates."

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

12 USC 1848.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

12 USC 1844.

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(f) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience

Rules and regulations.

Misdemeanor.

to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

Civil penalty.

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(C) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Certification.

"(E) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

Notice of charges.

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

Notice of charges.

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and further to take affirmative action to correct the conditions resulting from any such violation or practice.

12 USC 1726.

Hearing.

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

Notice of charges.

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing.

Cease-and-desist order.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

Notice of charges.

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

Hearing.

Cease-and-desist order.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

"(3) This subsection and subsections (c) through (f) and (h) through (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a bank holding company, as those terms are defined in the Bank Holding Company Act of 1956, and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, in the same manner as they apply to a State member insured bank. Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

12 USC 1841 note.
12 USC 601-604a, 611-632.

(c)(1) Sections 8(c) (1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

Cease-and-desist order.

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injuction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injuction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

Cease-and-desist order.

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

Injunction.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

Cease-and-desist order.

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

Injunction.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

Cease-and-desist order.

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

Injunction.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(e)), is amended to read as follows:

Removal from office, notice of intent.

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which consititutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or office has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

Hearing.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

Removal from office, notice of intent.

"(g)(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personel dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

Removal from office, notice of intent.

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or a willful or continuing disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidence either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (3) through (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (3) through (4)), is amended to read as follows:

Suspension from office.

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

Hearing.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

Civil penalty.

Notice.

"Violates."

"(2)(i) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(iii) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(iv) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Certification.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730 (k)) is amended by adding a new paragraph (k)(3) to read as follows:

Civil penalty.

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the term of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forefit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation.

Certification.

The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating section 5(d)(8) as 5(d)(8)(A) and by adding the following new paragraph:

Civil penalty.

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Notice.
"Violates."

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Review.

Certification.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

Regulations.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

Civil penalty.

Notice.
"Violates."

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Hearing opportunity.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court

Review.

Certification.

within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

Ante, p. 3644.

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its executive officers or directors or to any person who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to companies controlled by such an executive officer, director, or person, or to political or campaign committees the funds or services of which will benefit such an officer, director, or person or which are controlled by such an officer, director, or person and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

Civil penalty.

12 USC 371c, *ante*, p. 3644.

Notice.
"Violates."

"(3)(A) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(C) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

Review.

"(D) Any nonmember insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

Certification.

"(E) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

12 USC 93 note.

SEC. 109. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 110. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 111. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

Suspension from office.

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

Notification.

Rules.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

Misdemeanor.

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

Notice of suspension from office.

Removal from office.

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Notification.

Rules.

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(2) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

Suspension from office.

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less tnan a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their repective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Hearing.

Notification.

Rules.

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this subsection (d)" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(12)(A) of such Act (12 U.S.C. 1464(d)(12)(A)) is amended by striking "or 5(A)" and inserting in lieu thereof the following: "5(A), or 5(C)".

(4) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

Suspension from office.

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, committee member, or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

Removal from office.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's members or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee member, officer, or other person may appear, personally or through counsel, before the Administrator or his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

Hearing.

Notification.

Rules.

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

Sec. 112. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954," and inserting in lieu thereof the following: "The prohibitions in this section shall not apply to (i) any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code of 1954, or to any labor, agricultural, or horticultural organization to which all or substantially all of the assets of such company are hereafter transferred,".

26 USC 501.

Sec. 113. The third sentence of the second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking the words "direct obligations of the United States" and inserting in lieu thereof the words "any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof".

TITLE II—INTERLOCKING DIRECTORS

Depository Institution Management Interlocks Act.
Short title.
12 USC 3201 note.

SEC. 201. This title may be cited as the "Depository Institution Management Interlocks Act".

Definitions.
12 USC 3201.

SEC. 202. As used in this title—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

12 USC 1841.

(2) the term "depository holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act;

12 USC 1730a.

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company; or

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Corporation and chartered under State law, the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centum of the paid-in capital and 6 per centum of the surplus of such a bank.

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director), a trustee of a business organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: *Provided*, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: *And provided further*, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depository institution means either a principal office or a branch.

Service in another institution, prohibition.
12 USC 3202.

SEC. 203. A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, except in the case of depository institutions with less than $20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

Service in another institution, prohibition.
12 USC 3203.

SEC. 204. If a depository institution or a depository holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

12 USC 3204.

SEC. 205. The prohibitions contained in sections 203 and 204 shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

12 USC 601-604a, 611-632.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

12 USC 3205.

SEC. 206. A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title.

15 USC 19.

Administration and enforcement. 12 USC 3206.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration, and

(6) Upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this title.

SEC. 208. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding at the end thereof the following new paragraph:

"Officer" and "director."

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"Officer" and "director."

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

12 USC 1730.

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"Officer" and "director."

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

Rules and regulations. 12 USC 3207.

SEC. 209. Rules and regulations to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

"Foreign branch."

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations are conducted".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

Regulations.

"(2) No State nonmember insured bank shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

Regulations.

"(l) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limit prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

Liabilities assumption.

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"Affiliate" and "member bank."
12 USC 371c.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Banking Act of 1933 shall be deemed to refer to an insured bank.".

12 USC 221a.

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(l)(5) of this Act)".

12 USC 1813.

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

Notification.

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

SEC. 309. The last sentence of section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended to read as follows:

Rules and regulations.

"Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).".

SEC. 310. (a) Section 7(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(4)) is amended by adding at the end thereof the following new sentence: "Deposits which are accumulated for the payment of personal loans and are assigned or pledged to assure payment of loans at maturity shall not be included in the total deposits in such reports, but shall be deducted from the loans for which such deposits are assigned or pledged to assure repayment.".

(b) Section 7(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(5)) is amended by striking out "deposits accumulated for the payment of personal loans," in the second sentence thereof.

(c) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended by striking out subparagraph (B), and redesignating subparagraphs (C) and (D) as (B) and (C), respectively.

12 USC 601 note.

SEC. 311. Section 9 of the International Banking Act of 1978 (P.L. 95-369) is amended by inserting "(a)" immediately after "SEC. 9." and by inserting at the end thereof the following new subsection:

Foreign bank operations.
12 USC 3106a.

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

Application approval.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

TITLE IV—AMERICAN ARTS GOLD MEDALLIONS

American Arts Gold Medallion Act.
Short title.

SEC. 401. This title may be cited as the "American Arts Gold Medallion Act".

SEC. 402. The Secretary of the Treasury (hereinafter referred to as the "Secretary") shall, during each of the first five calendar years beginning after the date of enactment of this title, strike and sell to the general public, as provided by this title, gold medallions (hereinafter referred to as "medallions") containing, in the aggregate, not less than one million troy ounces of fine gold, and commemorating outstanding individuals in the American arts.

SEC. 403. (a) Medallions struck under authority of this title shall be minted in two sizes containing, respectively, one troy ounce and one-half troy ounce of fine gold. During the first year in which such medallions are struck, at least five hundred thousand troy ounces of fine gold shall be struck in each size of medallions authorized by this subsection. In succeeding years, the proportion of gold devoted to each size of medallions shall be determined by the Secretary on the basis of expected demand.

(b) Medallions struck under authority of this title shall be of such fineness that, of one thousand parts by weight, nine hundred shall be of fine gold and one hundred of alloy. Medallions shall not be struck from ingots which deviate from the standard of this subsection by more than one part per thousand.

Designs and inscriptions.

(c) Medallions struck under the authority of this title shall bear such designs and inscriptions as the Secretary may approve subject to the following—

(1) during the first calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Grant Wood on the obverse side and one-half ounce medallions shall be struck with a picture of Marian Anderson on the obverse side;

(2) during the second calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Mark Twain on the obverse side and one-half ounce medallions shall be struck with a picture of Willa Cather on the obverse side;

(3) during the third calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Louis Armstrong on the obverse side and one-half ounce medallions shall be struck with a picture of Frank Lloyd Wright on the obverse side;

(4) during the fourth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Robert Frost on the obverse side and one-half ounce medallions shall be struck with a picture of Alexander Calder on the obverse side; and

(5) during the fifth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Helen Hayes on the obverse side and one-half ounce medallions shall be struck with a picture of John Steinbeck on the obverse side.

The reverse side of each medallion shall be of different design, shall be representative of the artistic achievements of the individual on the obverse side, and shall include the inscription "American Arts Commemorative Series".

Regulations.

Contracts.

SEC. 404. Dies for use in striking the medallions authorized by this title may be executed by the engraver, and the medallions struck by the Superintendent of coining department of the mint at Philadelphia, under such regulations as the Superintendent, with the approval of the Director of the Mint, may prescribe. In order to carry out this title, the Secretary may enter into contracts: *Provided*, That suitable precautions are maintained to secure against counterfeiting and against unauthorized issuance of medallions struck under authority of this title.

SEC. 405. For purposes of section 485 of title 18 of the United States Code, a coin of a denomination of higher than 5 cents shall be deemed to include any medallion struck under the authority of this title.

SEC. 406. (a) Medallions struck under authority of this title shall be sold to the general public at a competitive price equal to the free market value of the gold contained therein plus the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses including marketing costs. In order to carry out the purposes of this section, the Secretary shall enter into such arrangements with the Administrator of General Services (hereinafter referred to as the "Administrator") as may be appropriate.

Sale.

(b) The Administrator shall make such arrangements for the sale of medallions as will encourage broad public participation and will not preclude purchases of single pieces.

Rules and regulations.

(c) The Administrator may, after consultation with the Secretary, issue rules and regulations to carry out this section.

Effective date.

SEC. 407. This title shall take effect on October 1, 1979.

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

National Credit Union Administration. Establishment.

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

Membership.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

Term.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

Management.

Rules.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

Quorum.

Report to President and Congress.

"(e) The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

Audit.
Rules and regulations.

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

12 USC 1752.

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 5108(a) of title 5, United States Code, is amended by changing the number "3,301" in the first sentence to read "3,310".

(d) Section 5314 of title 5, United States Code, is amended by adding the following new paragraph:

"(66) Chairman, National Credit Union Administration Board.".

(e) Section 5315 (93) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured State credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

"Branch."

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 504. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 505. (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"Member account."

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 506. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 507. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

Rules.

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 508. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Board.".

Effective date.
12 USC 1752 note.

SEC. 509. The amendments made by this title take effect upon the effective date of this Act, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

TITLE VI—CHANGE IN BANK CONTROL ACT

Change in Bank Control Act of 1978.
Short title.
12 USC 1817 note.

SEC. 601. This title may be cited as the "Change in Bank Control Act of 1978".

SEC. 602. Subsection (j) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended to read as follows:

"(j)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured bank through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such insured bank unless the appropriate Federal banking agency has been given sixty days' prior written notice of such proposed acquisition and within that time period the agency has not issued a notice disapproving the proposed acquisition or extending for up to another thirty days the period during which such a disapproval may issue. The period for disapproval may be further extended only if the agency determines that any acquiring party has not furnished all the information required under section (j)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the agency issues written notice of its intent not to disapprove the action. For purposes of this subsection (j), the term 'insured bank' shall include any 'bank holding company', as that term is defined in section 2 of the Bank Holding Company Act, which has control of any such insured bank,

"Insured bank."
12 USC 1841.

and the appropriate Federal banking agency in the case of bank holding companies shall be the Board of Governors of the Federal Reserve System.

"(2) Upon receiving any notice under this subsection, the appropriate Federal banking agency shall forward a copy thereof to the appropriate State bank supervisory agency if the bank the voting shares of which are sought to be acquired is a State bank, and shall allow thirty days within which the views and recommendations of such State bank supervisory agency may be submitted. The appropriate Federal banking agency shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this section (j)(2), if the appropriate Federal banking agency determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the bank involved in the proposed acquisition, such Federal banking agency may dispense with the requirements of this subsection (j)(2) or, if a copy of the notice is forwarded to the State bank supervisory agency, such Federal banking agency may request that the views and recommendations of such State bank supervisory agency be submitted immediately in any form or by any means acceptable to such Federal banking agency.

Notification.

"(3) Within three days after its decision to disapprove any proposed acquisition, the appropriate Federal banking agency shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

Hearing.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the appropriate Federal banking agency. At the conclusion thereof, the appropriate Federal banking agency shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

Review.

Certification.

"(5) Any person whose proposed acquisition is disapproved after agency hearings under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the bank to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the appropriate Federal banking agency shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

"(6) Except as otherwise provided by regulation of the appropriate Federal banking agency, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular notice.

"(7) The appropriate Federal banking agency may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monoplize or to attempt to monopolize the business of banking in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

"(E) any acquiring person neglects, fails, or refuses to furnish the appropriate Federal banking agency all the information required by the appropriate Federal banking agency.

"(8) For the purposes of this subsection, the term—

"Person."

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"Control."

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured bank or to vote 25 per centum or more of any class of voting securities of an insured bank.

"(9) Whenever any insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured bank, the president or other chief executive officer of the lending bank shall promptly report such fact to the appropriate Federal banking agency of the bank whose stock secures the loan or loans upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized bank prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular report.

"(11) The Federal banking agency receiving a notice or report filed pursuant to paragraph (1) or (9) shall immediately furnish to the other Federal banking agencies a copy of such notice or report.

"(12) Whenever such a change in control occurs, each insured bank shall report promptly to the appropriate Federal banking agency any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

Rules and regulations.

"(13) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection.

Report to Congress.

"(14) Within two years after the effective date of the Change in Bank Control Act of 1978, and each year thereafter in each appropriate Federal banking agency's annual report to the Congress, the appropriate Federal banking agency shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

Civil penalty.

"(15) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The appropriate Federal banking agency shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil

Notice.

penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

"(16) This subsection shall not apply to a transaction subject to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or section 18 of this Act (12 U.S.C. 1828).".

TITLE VII—CHANGE IN SAVINGS AND LOAN CONTROL ACT

Change in Savings and Loan Control Act of 1978.

Short title.
12 USC 1730 note.

SEC. 701. This title may be cited as the "Change in Savings and Loan Control Act of 1978".

"Stock" and "insured institution."

SEC. 702. Paragraph (6) of section 407(l) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended to read as follows:

"(6) As used in this subsection, the term 'stock' means rights, interests, or powers with respect to a mutual institution and the term 'insured institution' means a mutual insured institution.".

SEC. 703. Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by redesignating section 407(q) as 407(r) and inserting immediately after "(p)" the following:

"(q)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured institution through a purchase assignment, transfer, pledge, or other disposition of voting stock of such insured institution unless the Corporation has been given sixty days' prior written notice of such proposed acquisition and within that time period the Corporation has not issued a notice disapproving the proposed acquisition or extending up to another thirty days the period during which a disapproval may issue. The period for disapproval may be further extended only if the Corporation determines that any acquiring party has not furnished all the information required under subsection (q)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Corporation issues written notice of its intent not to disapprove the action. For purposes of this subsection (q), the term 'insured institution' shall include any 'savings and loan holding company', as that term is defined in section 408 of the National Housing Act, which has control of any such insured institution.

"Insured institution."

12 USC 1730a.

"(2) Upon receiving any notice under this subsection, the Corporation shall forward a copy thereof to the appropriate State savings and loan association supervisory agency if the insured institution the voting shares of which are sought to be acquired is a State chartered institution, and shall allow thirty days within which the views and recommendations of such State supervisory agency may be submitted. The Corporation shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (q)(2), if the Corporation determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the institution involved in the proposed acquisition, the Corporation may dispense with the requirement of this subsection (l)(2) or, if a copy of the notice is forwarded to the State supervisory agency, the Corporation may request that the views and recommendations of such State supervisory agency be submitted immediately in any form or by any means acceptable to the Corporation.

Notification.

"(3) Within three days after its decision to disapprove any proposed acquisition, the Corporation shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

Hearing.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the Corporation. At the conclusion thereof, the Corporation shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

Review.

"(5) Any person whose proposed acquisition is disapproved after agency hearing under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the institution to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the Corporation shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

Certification.

"(6) Except as otherwise provided by regulation of the Corporation, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the institution, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the Corporation may require by regulation or by specific request in connection with any particular notice.

"(7) The Corporation may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution;

"(D) the competence, experience, or integrity of any acquiring person or any of the proposed management personnel indicates that it would not be in the interest of the depositors of the institution or in the interest of the public to permit such person to control the institution; or

"(E) any acquiring person neglects, fails, or refuses to furnish the Corporation all the information required by the Corporation.

"(8) For the purposes of this subsection, the term—

"Person."

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein, and

"Control."

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution.

Report.

"(9) Whenever any insured institution or an insured bank makes a loan, or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured institution, the president or other chief executive officer of the lending insured institution or insured bank shall promptly report such fact to the Corporation upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized institution prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the Corporation may require by regulation or by specific request in connection with any particular report.

Report.

"(11) Whenever a change in control occurs, each insured institution shall report promptly to the Corporation any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

"(12) Without limitation by or on the foregoing provisions of this subsection, the Corporation may require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, as defined by the Corporation, to provide, in such manner as the Corporation may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

"Stock."

"(13) As used in this subsection, the term 'stock' means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto.

Rules and regulations.

"(14) The Corporation is authorized to issue rules and regulations to carry out this subsection.

Report to Congress.

"(15) Within two years after the effective date of the Change in Savings and Loan Control Act of 1978 and each year thereafter in the Corporation's annual report to the Congress, the Corporation shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the Corporation would be desirable.

Civil penalty.

"(16) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to trial de novo.

"(17) This subsection shall not apply to a transaction subject to section 408 of this Act (12 U.S.C. 1730a).".

TITLE VIII—CORRESPONDENT ACCOUNTS

Sec. 801. Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) is amended by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, by inserting "(1)" immediately after "(b)", and by inserting at the end thereof the following new paragraph:

"(2)(A) No bank which maintains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"Extension of credit" and "executive officer."

"(E) For purposes of this paragraph, the term 'extension of credit' shall have the same meaning given it in section 23A of the Federal Reserve Act and the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

Civil penalty.

"(F)(i) Any bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such bank who violates any provision of section 106(b) (2) shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, or the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counselling, or aiding or abetting a violation.

Notice.

"Violates."

"(ii) In determining the amount of the penalty the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Hearing opportunity.

"(iii) The bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

Review.

"(iv) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be.

Certification.

The Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and apropriateness of the final order imposing the penalty shall not be subject to review.

Regulations.

"(vi) The Comptroller of the Currency, the Board and the Federal Deposit Insurance Corporation shall promulgate regulations establishing procedures necessary to implement this section.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

Report.

"(G)(i) Each executive officer and each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of an insured bank shall make a written report to the board of directors of such bank for any year during which such executive officer or shareholder has outstanding an extension of credit from a bank which maintains a corresponding account in the name of such bank. Such report shall include the following information:

"(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

"(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder;

"(3) the range of interest rates charged on such indebtedness of such executive officer or stockholder of record; and

"(4) the terms and conditions of such indebtedness of such executive officer or stockholder of record.

Reports compilation.

"(ii) Each insured bank shall compile the reports filed pursuant to subparagraph (G)(i) and forward such compilation to the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, and the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank.

"(iii) Each insured bank shall include in the report required to be made under subsection (k)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)(1)) a list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank who files information required by subparagraph (G)(i) and the aggregate amount of all extensions of credit by correspondent banks to such executive officers or stockholders of record, any company controlled by such executive officers or stockholders, and any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.".

TITLE IX—DISCLOSURE OF MATERIAL FACTS

SEC. 901. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by adding at the end thereof the following new subsection:

Annual report.

"(k)(1) Each insured bank shall make to the appropriate Federal banking agency an annual report which shall contain the following information with respect to the preceding calendar year:

"(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

"(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extensions of credit by such bank during such year to: (i) such executive officers or stockholders of record, (ii) any company controlled by such executive officers, or stockholders, or (iii) any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.

"Executive officer."
12 USC 375a.

"(2) For purposes of this subsection, the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

Rules and regulations.

"(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection, including authority to incorporate the information required to be filed by this subsection in any other report required to be filed by all insured banks which would be available in its entirety to the public upon request.

"(4) Copies of any report required to be filed under this subsection shall be made available, by the appropriate Federal banking agency or by the bank, upon request, to the public.".

Federal Financial Institutions Examination Council Act of 1978.
Short title.
12 USC 3301 note.

TITLE X—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

SEC. 1001. This title may be cited as the "Federal Financial Institutions Examination Council Act of 1978".

PURPOSE

12 USC 3301.

SEC. 1002. It is the purpose of this title to establish a Financial Institutions Examination Council which shall prescribe uniform principles and standards for the Federal examination of financial institutions by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration and make recommendations to promote uniformity in the supervision of these financial institutions. The Council's actions shall be designed to promote consistency in such examination and to insure progressive and vigilant supervision.

DEFINITIONS

12 USC 3302.

SEC. 1003. As used in this title—

(1) the term "Federal financial institutions regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration;

(2) the term "Council" means the Financial Institutions Examination Council; and

(3) the term "financial institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, or a credit union;

ESTABLISHMENT OF THE COUNCIL

Financial Institutions Examination Council.
12 USC 3303.

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Chairman of the Federal Home Loan Bank Board, and

(5) the Chairman of the National Credit Union Administration Board.

Members.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

Term.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-fifth of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such share shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary. 12 USC 3304.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of financial institutions which shall be applied by the Federal financial institutions regulatory agencies. **Principles and standards.** 12 USC 3305.

(b)(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying financial institutions in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more financial institutions. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the financial institutions within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of financial institutions or their holding companies.

(2) When a recommendation of the Council is found unaccepted by one or more of the applicable Federal financial institutions regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised financial institutions, their holding companies, and nonfinancial institution subsidiaries of such institutions or holding companies. The authority to develop uniform reporting systems shall not restrict or amend the requirements of section 12(i) of the Securities Exchange Act of 1934. **Reporting systems.**

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal financial institutions regulatory agencies. Such schools shall be open to enrollment by employees of State financial institutions supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year. **Annual report.**

STATE LIAISON

Establishment.
12 USC 3306.

Allowance.

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

ADMINISTRATION

12 USC 3307.

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) in addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

Experts and consultants, services.

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

12 USC 3308.

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

AUDITS BY THE COMPTROLLER GENERAL

31 USC 67.

SEC. 1010. Section 117 of the Accounting and Auditing Act of 1950, as amended by the Federal Banking Agency Audit Act (Public Law 95–320), is further amended by:

(1) redesignating clauses (A), (B), and (C) of subsection (e)(1) as (B), (C), and (D), respectively, and inserting in subsection (e)(1) the clause "(A) of the Financial Institutions Examination Council;" immediately following "audits"; and

(2) striking out in subsection (e)(2) "and (C)" and inserting in lieu thereof "(C), and (D)".

TITLE XI—RIGHT TO FINANCIAL PRIVACY

Right to Financial Privacy Act of 1978.
Short title.
12 USC 3401 note.

SEC. 1100. This title may be cited as the "Right to Financial Privacy Act of 1978".

DEFINITIONS

12 USC 3401.

SEC. 1101. For the purpose of this title, the term—

(1) "financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) "financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(3) "Government authority" means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) "person" means an individual or a partnership of five or fewer individuals;

(5) "customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name;

(6) "supervisory agency" means, with respect to any particular financial institution any of the following which has statutory authority to examine the financial condition or business operations of that institution—

(A) the Federal Deposit Insurance Corporation;

(B) the Federal Savings and Loan Insurance Corporation;

(C) the Federal Home Loan Bank Board;

(D) the National Credit Union Administration;

(E) the Board of Governors of the Federal Reserve System;

(F) the Comptroller of the Currency;

(G) the Securities and Exchange Commission;

(H) the Secretary of the Treasury, with respect to the Bank Secrecy Act and the Currency and Foreign Transactions Reporting Act (Public Law 91-508, title I and II); or

(I) any State banking or securities department or agency: and

12 USC 1829b-1831, 1951-1959.
31 USC 1051 note.

(7) "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto.

CONFIDENTIALITY OF RECORDS—GOVERNMENT AUTHORITIES

12 USC 3402.

SEC. 1102. Except as provided by section 1103 (c) or (d), 1113, or 1114, no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer from a financial institution unless the financial records are reasonably described and—

(1) such customer has authorized such disclosure in accordance with section 1104;

(2) such financial records are disclosed in response to an administrative subpena or summons which meets the requirements of section 1105;

(3) such financial records are disclosed in response to a search warrant which meets the requirements of section 1106;

(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 1107; or

(5) such financial records are disclosed in response to a formal written request which meets the requirements of section 1108.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

12 USC 3403.

SEC. 1103. (a) No financial institution, or officer, employees, or agent of a financial institution, may provide to any Government authority access to or copies of, or the information contained in, the financial records of any customer except in accordance with the provisions of this title.

(b) A financial institution shall not release the financial records of a customer until the Government authority seeking such records certifies in writing to the financial institution that it has complied with the applicable provisions of this title.

(c) Nothing in this title shall preclude any financial institution, or any officer, employee, or agent of a financial institution, from notifying a Government authority that such institution, or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation.

(d)(1) Nothing in this title shall preclude a financial institution, as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary, from providing copies of any financial record to any court or Government authority.

(2) Nothing in this title shall preclude a financial institution, as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement, or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, from initiating contact with an appropriate Government authority for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement.

CUSTOMER AUTHORIZATIONS

12 USC 3404.

SEC. 1104. (a) A customer may authorize disclosure under section 1102(1) if he furnishes to the financial institution and to the Government authority seeking to obtain such disclosure a signed and dated statement which—

(1) authorizes such disclosure for a period not in excess of three months;

(2) states that the customer may revoke such authorization at any time before the financial records are disclosed;

(3) identifies the financial records which are authorized to be disclosed;

(4) specifies the purposes for which, and the Government authority to which, such records may be disclosed; and

(5) states the customer's rights under this title.

(b) No such authorization shall be required as a condition of doing business with any financial institution.

(c) The customer has the right, unless the Government authority obtains a court order as provided in section 1109, to obtain a copy of the record which the financial institution shall keep of all instances in which the customer's record is disclosed to a Government authority pursuant to this section, including the identity of the Government authority to which such disclosure is made.

Notification.
Statement.

(d) All financial institutions shall promptly notify all of their customers of their rights under this title. The Board of Governors of the Federal Reserve System shall prepare a statement of customers' rights under this title. Any financial institution that provides its customers a statement of customers' rights prepared by the Board shall be deemed to be in compliance with this subsection.

ADMINISTRATIVE SUBPENA AND SUMMONS

Financial records.
12 USC 3405.

SEC. 1105. A Government authority may obtain financial records under section 1102(2) pursuant to an administrative subpena or summons otherwise authorized by law only if—

(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena or summons has been served upon the customer or mailed to his last known address on or before the date on which the subpena or summons was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached subpena or summons are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States district courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(3) ten days have expired from the date of service of the notice or fourteen days have expired from the date of mailing the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

SEARCH WARRANTS

Financial records.
12 USC 3406.
18 USC app.

SEC. 1106. (a) A Government authority may obtain financial records under section 1102(3) only if it obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

(b) No later than ninety days after the Government authority serves the search warrant, it shall mail to the customer's last known address a copy of the search warrant together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date) for the following purpose: . You may have rights under the Right to Financial Privacy Act of 1978.".

(c) Upon application of the Government authority, a court may grant a delay in the mailing of the notice required in subsection (b), which delay shall not exceed one hundred and eighty days following the service of the warrant, if the court makes the findings required in section 1109(a). If the court so finds, it shall enter an ex parte order granting the requested delay and an order prohibiting the financial institution from disclosing that records have been obtained or that a search warrant for such records has been executed. Additional delays of up to ninety days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay of notification of the customer, the following notice shall be mailed to the customer along with a copy of the search warrant:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date). Notification was delayed beyond the statutory ninety-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning . You may have rights under the Right to Financial Privacy Act of 1978.".

JUDICIAL SUBPENA

Financial records.
12 USC 3407.

SEC. 1107. A Government authority may obtain financial records under section 1102(4) pursuant to judicial subpena only if—

(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena has been served upon the customer or mailed to his last known address on or before the date on which the subpena was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached subpena are being sought by this (agency or department or authority) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of the   Court.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to   .

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(3) ten days have expired from the date of service or fourteen days from the date of mailing of the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

FORMAL WRITTEN REQUEST

Financial records.
12 USC 3408.

SEC. 1108. A Government authority may request financial records under section 1102(5) pursuant to a formal written request only if—

(1) no administrative summons or subpena authority reasonably appears to be available to that Government authority to obtain financial records for the purpose for which such records are sought;

(2) the request is authorized by regulations promulgated by the head of the agency or department;

(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and

(4)(A) a copy of the request has been served upon the customer or mailed to his last known address on or before the date on which the request was made to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached request are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose:

"If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein may be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(B) ten days have expired from the date of service or fourteen days from the date of mailing of the notice by the customer and within such time period the customer has not filed a sworn statement and an application to enjoin the Government authority in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

DELAYED NOTICE—PRESERVATION OF RECORDS

12 USC 3409.

SEC. 1109. (a) Upon application of the Government authority, the customer notice required under section 1104(c), 1105(2), 1106(c), 1107(2), 1108(4), or 1112(b) may be delayed by order of an appropriate court if the presiding judge or magistrate finds that—

(1) the investigation being conducted is within the lawful jurisdiction of the Government authority seeking the financial records;

(2) there is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and

(3) there is reason to believe that such notice will result in—

(A) endangering life or physical safety of any person;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same extent as the circumstances in the preceding subparagraphs.

An application for delay must be made with reasonable specificity.

(b)(1) If the court makes the findings required in paragraphs (1), (2), and (3) of subsection (a), it shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution from disclosing that records have been obtained or that a request for records has been made, except that, if the records have been sought by a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (title II, Public Law 95–223), or section 5 of the United Nations Participation Act (22 U.S.C. 287c), and the court finds that there is reason to believe that such notice may endanger the lives or physical safety of a customer or group of customers, or any person or group of persons associated with a customer, the court may specify that the delay be indefinite.

50 USC 1701 note.

(2) Extensions of the delay of notice provided in paragraph (1) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection.

(3) Upon expiration of the period of delay of notification under paragraph (1) or (2), the customer shall be served with or mailed a copy of the process or request together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason). The purpose of the investigation or official proceeding was .".

(c) When access to financial records is obtained pursuant to section 1114(b) (emergency access), the Government authority shall, unless a court has authorized delay of notice pursuant to subsections (a) and (b), as soon as practicable after such records are obtained serve upon the customer, or mail by registered or certified mail to his last known address, a copy of the request to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records concerning your transactions held by the financial institution named in the attached request were obtained by (agency or department) under the Right to Financial Privacy Act of 1978 on (date) for the following purpose: Emergency access to such records was obtained on the grounds that (state grounds).".

(d) Any memorandum, affidavit, or other paper filed in connection with a request for delay in notification shall be preserved by the court. Upon petition by the customer to whom such records pertain, the court may order disclosure of such papers to the petitioner unless the court makes the findings required in subsection (a).

CUSTOMER CHALLENGE PROVISIONS

12 USC 3410.

SEC. 1110. (a) Within ten days of service or within fourteen days of mailing of a subpena, summons, or formal written request, a customer may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request, with copies served upon the Government authority. A motion to quash a judicial subpena shall be filed in the court which issued the subpena. A motion to quash an administrative summons or an application to enjoin a Government authority from obtaining records pursuant to a formal written request shall be filed in the appropriate United States district court. Such motion or application shall contain an affidavit or sworn statement—

(1) stating that the applicant is a customer of the financial institution from which financial records pertaining to him have been sought; and

(2) stating the applicant's reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this title. For the purposes of this section, "delivery" has the meaning stated in rule 5(b) of the Federal Rules of Civil Procedure.

"Delivery."

28 USC app.

Sworn response filing.

(b) If the court finds that the customer has complied with subsection (a), it shall order the Government authority to file a sworn response, which may be filed in camera if the Government includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided within seven calendar days of the filing of the Government's response.

Motion or application denial.

(c) If the court finds that the applicant is not the customer to whom the financial records sought by the Government authority pertain, or that there is a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, it shall deny the motion or application, and, in the case of an administrative summons or court order other than a search warrant, order such process enforced. If the court finds that the applicant is the customer to whom the records sought by the Government authority pertain, and that there is not a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, or that there has not been substantial compliance with the provisions of this title, it shall order the process quashed or shall enjoin the Government authority's formal written request.

(d) A court ruling denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer. An appeal of a ruling denying a motion or application under this section may be taken by the customer (1) within such period of time as provided by law as part of any appeal from a final order in any legal proceeding initiated against him arising out of or based upon the financial records, or (2) within thirty days after a notification that no legal proceeding is contemplated against him. The Government authority obtaining the financial records shall promptly notify a customer when a determination has been made that no legal proceeding against him is contemplated. After one hundred and eighty days from the denial of the motion or application, if the Government authority obtaining the records has not initiated such

Notification.

Certification.

a proceeding, a supervisory official of the Government authority shall certify to the appropriate court that no such determination has been made. The court may require that such certifications be made, at reasonable intervals thereafter, until either notification to the customer has occurred or a legal proceeding is initiated as described in clause (A).

(e) The challenge procedures of this title constitute the sole judicial remedy available to a customer to oppose disclosure of financial records pursuant to this title.

(f) Nothing in this title shall enlarge or restrict any rights of a financial institution to challenge requests for records made by a Government authority under existing law. Nothing in this title shall entitle a customer to assert the rights of a financial institution.

DUTY OF FINANCIAL INSTITUTIONS

12 USC 3411.

SEC. 1111. Upon receipt of a request for financial records made by a Government authority under section 1105 or 1107, the financial institution shall, unless otherwise provided by law, proceed to assemble the records requested and must be prepared to deliver the records to the Government authority upon receipt of the certificate required under section 1103(b).

USE OF INFORMATION

Transfer, certification.
12 USC 3412.

SEC. 1112. (a) Financial records originally obtained pursuant to this title shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department.

Notice.

(b) When financial records subject to this title are transferred pursuant to subsection (a), the transferring agency or department shall, within fourteen days, send to the customer a copy of the certification made pursuant to subsection (a) and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: "Copies of, or information contained in, your financial records lawfully in possession of   have been furnished to   pursuant to the Right of Financial Privacy Act of 1978 for the following purpose:
               . If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(c) Notwithstanding subsection (b), notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 1109 (a) and (b) and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to section 1109 (a) and (b). Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) above and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 1109 (a) and (b) shall serve to the customer the notice specified in section 1109(b).

(d) Nothing in this title prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this title prohibits the transfer of a customer's financial records needed by counsel for a Government authority to defend an action brought by the customer. Nothing in this title shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

EXCEPTIONS

12 USC 3413.

SEC. 1113. (a) Nothing in this title prohibits the disclosure of any financial records or information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Nothing in this title prohibits examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(c) Nothing in this title prohibits the disclosure of financial records in accordance with procedures authorized by the Internal Revenue Code. 26 USC 1 *et seq.*

(d) Nothing in this title shall authorize the withholding of financial records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Nothing in this title shall apply when financial records are sought by a Government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties.

(f) Nothing in this title shall apply when financial records are sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and to which the Government authority and the customer are parties.

(g) The notice requirements of this title and sections 1110 and 1112 shall not apply when a Government authority by a means described in section 1102 and for a legitimate law enforcement inquiry is seeking only the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (title II, Public Law 95-223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c)). 50 USC 1701 note.

(h)(1) Nothing in this title (except sections 1103, 1117 and 1118) shall apply when financial records are sought by a Government authority—

(A) in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer; or

(B) in connection with the authority's consideration or administration of assistance to the customer in the form of a Government loan, loan guaranty, or loan insurance program.

Certification.

(2) When financial records are sought pursuant to this subsection, the Government authority shall submit to the financial institution the certificate required by section 1103(b). For access pursuant to paragraph (1)(B), no further certification shall be required for subse-

quent access by the certifying Government authority during the term of the loan, loan guaranty, or loan insurance agreement.

Notice.

(3) After the effective date of this title, whenever a customer applies for participation in a Government loan, loan guaranty, or loan insurance program, the Government authority administering such program shall give the customer written notice of the authority's access rights under this subsection. No further notification shall be required for subsequent access by that authority during the term of the loan, loan guaranty, or loan insurance agreement.

(4) Financial records obtained pursuant to this subsection may be used only for the purpose for which they were originally obtained, and may be transferred to another agency or department only when the transfer is to facilitate a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records, or at a legal entity which is not a customer, except that—

(A) nothing in this paragraph prohibits the use or transfer of a customer's financial records needed by counsel representing a Government authority in a civil action arising from a Government loan, loan guaranty, or loan insurance agreement; and

(B) nothing in this paragraph prohibits a Government authority providing assistance to a customer in the form of a loan, loan guaranty, or loan insurance agreement from using or transferring financial records necessary to process, service or foreclose a loan, or to collect on an indebtedness to the Government resulting from a customer's default.

(5) Notification that financial records obtained pursuant to this subsection may relate to a potential civil, criminal, or regulatory violation by a customer may be given to an agency or department with jurisdiction over that violation, and such agency or department may then seek access to the records pursuant to the provisions of this title.

(6) Each financial institution shall keep a notation of each disclosure made pursuant to paragraph (1)(B) of this subsection, including the date of such disclosure and the Government authority to which it was made. The customer shall be entitled to inspect this information.

(i) Nothing in this title (except sections 1115 and 1120) shall apply to any subpena or court order issued in connection with proceedings before a grand jury.

Audit.

(j) This title shall not apply when financial records are sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority.

SPECIAL PROCEDURES

12 USC 3414.

SEC. 1114. (a)(1) Nothing in this title (except sections 1115, 1117, 1118, and 1121) shall apply to the production and disclosure of financial records pursuant to requests from—

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90-331, as amended).

Certification.

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

Disclosure, prohibition.

(3) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that a Government authority described in paragraph (1) has sought or obtained access to a customer's financial records.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

Obtaining financial records.

(b)(1) Nothing in this title shall prohibit a Government authority from obtaining financial records from a financial institution if the Government authority determines that delay in obtaining access to such records would create imminent danger of—

(A) physical injury to any person;

(B) serious property damage; or

(C) flight to avoid prosecution.

(2) In the instances specified in paragraph (1), the Government shall submit to the financial institution of the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) Within five days of obtaining access to financial records under this subsection, the Government authority shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the Government authority setting forth the grounds for the emergency access. The Government authority shall thereafter comply with the notice provisions of section 1109(c).

Annual tabulation.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

COST REIMBURSEMENT

12 USC 3415.

Sec. 1115. (a) Except for records obtained pursuant to section 1103(d) or 1113 (a) through (h), or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

Regulation.

Effective date.

(b) This section shall take effect on October 1, 1979.

JURISDICTION

12 USC 3416.

Sec. 1116. An action to enforce any provision of this title may be brought in any appropriate United States district court without regard to the amount in controversy within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

CIVIL PENALTIES

12 USC 3417.

Sec. 1117. (a) Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this title is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Whenever the court determines that any agency or department of the United States has violated any provision of this title and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Commission after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(c) Any financial institution or agent or employee thereof making a disclosure of financial records pursuant to this title in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure. Liability.

(d) The remedies and sanctions described in this title shall be the only authorized judicial remedies and sanctions for violations of this title.

INJUNCTIVE RELIEF

SEC. 1118. In addition to any other remedy contained in this title, injunctive relief shall be available to require that the procedures of this title are complied with. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered. 12 USC 3418.

SUSPENSION OF STATUTES OF LIMITATIONS

SEC. 1119. If any individual files a motion or application under this title which has the effect of delaying the access of a Government authority to financial records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided. 12 USC 3419.

GRAND JURY INFORMATION

SEC. 1120. Financial records about a customer obtained from a financial institution pursuant to a subpena issued under the authority of a Federal grand jury— 12 USC 3420.

(1) shall be returned and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure; 18 USC app.

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority

other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

18 USC app.

REPORTING REQUIREMENTS

Report to congressional committees.
12 USC 3421.

Sec. 1121. (a) In April of each year, the Director of the Administrative Office of the United States Courts shall send to the appropriate committees of Congress a report concerning the number of applications for delays of notice made pursuant to section 1109 and the number of customer challenges made pursuant to section 1110 during the preceding calendar year. Such report shall include: the identity of the Government authority requesting a delay of notice; the number of notice delays sought and the number granted under each subparagraph of section 1109(a)(3); the number of notice delay extensions sought and the number granted; and the number of customer challenges made and the number that are successful.

Report to congressional committees.

(b) In April of each year, each Government authority that requests access to financial records of any customer from a financial institution pursuant to section 1104, 1105, 1106, 1107, 1108, 1109, or 1114 shall send to the appropriate committees of Congress a report describing requests made during the preceding calendar year. Such report shall include the number of requests for records made pursuant to each section of this title listed in the preceding sentence and any other related information deemed relevant or useful by the Government authority.

12 USC 3422.

Sec. 1122. The Securities and Exchange Commission shall not be subject to the provisions of this title for a period of two years from the date of enactment of the title.

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

Sec. 1201. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"Association."

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

Sec. 1202. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

Rules and regulations.

"Sec. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks, provided such conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may not convert from the mutual to the stock form of ownership. An association which was formerly organized as a savings bank

best copy available

under State law may not convert from the mutual to the stock form of ownership." An association which was formally organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of an application for conversion and such an association which was formerly organized as a savings bank under State law shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a savings bank organized under such State law, provided that such an association: (1) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county or within thirty-five miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(1) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area,

"(2) pertaining to requirements imposed under the Consumer Credit Protection Act,

15 USC 1601 note.

if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

SEC. 1203. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 1204. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 1205. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

Indemnification. 12 USC 1831c.

"SEC. 26. With respect to any State-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal savings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: One hundred per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

TITLE XIII—NOW ACCOUNTS

SEC. 1301. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting "New York," after "Vermont,".

Effective date. 12 USC 1832 note.

SEC. 1302. This title shall take effect upon enactment.

TITLE XIV—INSURANCE OF IRA AND KEOGH ACCOUNTS

SEC. 1401. (a) Section 11(a) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(a)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, time and savings deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

26 USC 401.

"Per account."

26 USC 408.

(b) Section 405(d) of the National Housing Act, as amended (12 U.S.C. 1728(d)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of deposit insurance available for any one account, funds invested in an insured institution pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in an insured institution in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

"Per account."

(c) Section 207(c) of the Federal Credit Union Act, as amended (12 U.S.C. 1787(c)), is amended by adding at the end thereof the following paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

"Per account."

26 USC 401, 408.

SEC. 1402. This title shall take effect upon enactment.

Effective date.
12 USC 1728 note.

TITLE XV—MISCELLANEOUS PROVISIONS

SEC. 1501. Paragraph (2) of section 3(c) of Public Law 94-222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendment made by paragraph (1) shall cease to be effective on February 27, 1981.".

SEC. 1502. Section 803 of Public Law 95-128 (12 U.S.C. 2902) is amended by adding at the end thereof the following new subsection:

> "(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity.".

"Entire community."

SEC. 1503. The last sentence of section 245 of the National Housing Act is amended by inserting immediately before "limiting the amount of interest" "(1)" and by inserting immediately before the period at the end thereof the following: ", or (2) requiring a minimum amortization of principle or otherwise relating to the amortization of principle under the mortgage or loan".

12 USC 1715z-10.

SEC. 1504. Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following new sentence: "A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto."

SEC. 1505. This title shall take effect upon enactment.

Effective date.
12 USC 27 note.

TITLE XVI—INTEREST RATE CONTROL

SEC. 1601. Section 7 of the Act of September 21, 1966 (Public Law 89-597) is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

12 USC 461 note.

SEC. 1602. Section 102 of Public Law 94-200 (12 U.S.C. 461 note) is amended by adding at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), with respect to savings deposits or accounts from which automatic transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made as a normal practice, pursuant to a prearranged agreement with the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation may pay on such accounts.".

Effective date. 12 USC 461 note.

Sec. 1603. This title shall take effect upon enactment.

TITLE XVII—FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

Sec. 1701. With the exception of undesignated paragraph 15, 17, and 23, section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

Rules and regulations.

"(C) An association may, to such extent, and subject to such rules and regulations as the Board may prescribe from time to time invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) Loans or investments without percentage of assets limitation.—Without limitation as a percentage of assets, the following are permitted:

"(A) Savings account loans.—Loans on the security of its savings accounts.

"(B) Single family and multifamily mortgage loans.—Loans on the security of first liens upon residential real property within one hundred miles of its home office or within the State in which such home office is located; loans so secured shall not exceed $60,000 in principal amount (except that with respect to residential real estate in Alaska, Guam, and Hawaii the foregoing limitation may be increased by not to exceed 50 per centum) for each single family dwelling nor exceed such amount per room within the limits allowable (at the time of the loan) in section 207(c)(3) of the National Housing Act for any other dwelling unit covered by such lien. 12 USC 1713.

"(C) United States government securities.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) Federal home loan bank and Federal National Mortgage Association securities.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) Federal home loan mortgage corporation instruments.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act. 12 USC 1454, 1455.

"(F) Other government securities.—Investments in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act. 12 USC 1721.

"(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

"(I) PURCHASE OF INSURED LOANS.—Purchase subject to all the provisions of paragraph (1)(B), except the area restriction, loans secured by first liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38 of the United States Code. 12 USC 1701. 38 USC 1801.

"(J) HOME IMPROVEMENT AND MOBILE HOME LOANS.—Loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of mobile home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor. 12 USC 1715z-5.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized. 12 USC 1425a.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership or joint venture formed pursuant to section 907(a) or 907(c) of that Act. 42 USC 3931. 42 USC 3937.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968 or under part B of the Urban Growth and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974 as now or hereafter in effect, or of a commitment or agreement therefor. 42 USC 3901. 42 USC 4511. 42 USC 1440.

"(P) State housing corporation investments.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

12 USC 1701.

"(2) Loans or investments limited to 20 per centum of assets.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) Other real estate loans.—Loans on security of first liens upon improved real estate; but the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under subparagraphs (1)(B) or (1)(I) shall be only the outstanding amount of such excess.

"(B) Participation loans.—Without regard to the area restriction contained in subparagraph (1)(B), investments for the making or purchase of participation interests in first liens on residential real property.

"(3) Loans or investments limited to 5 per centum of assets.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) Education loans.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) Land acquisition.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, subject to the area restriction contained in subparagraph (1)(B), loans to finance the acquisition and development of land for primary residential usage.

"(C) Housing facilities for the aging.—Subject to the area restriction contained in subparagraph (1)(B), amortized loans which are secured by first liens upon improved real estate used to provide housing facilities for the aging.

"(D) Community development investments.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, as amended but no investment in real property may exceed an aggregate investment of 2 per centum of the assets of the association.

42 USC 5301.

"(E) Nonconforming loans.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this section.

"(F) CONSTRUCTION LOANS, WITH OR WITHOUT SECURITY.—Subject to the area restriction of subparagraph (1)(B), investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party, and, in either case described in clause (i) or (ii), regardless of whether or not the association takes security; and investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of that State and by Federal associations having their home offices therein, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of the association.

"(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) acquire and hold investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or

22 USC 2181.
22 USC 2184.

22 USC 2181, 2182.

extended, or of any commitment or agreement for any such guaranty. Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this section. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.

"(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality): *Provided*, That the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate: *And provided further*, That the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus and undivided profits.

"(5) CONVERTED STATE-CHARTERED ASSOCIATIONS.—Any association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter.

"(6) DEFINITIONS.—As used in this section—

"(A) the terms 'residential real property' or 'residential real estate' include leaseholds and mean homes (including condominiums and cooperatives except that in connection with loans on individual cooperative units, the first lien requirement shall not apply but such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use;

"(B) the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

"(C) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.".

(b) Undesignated paragraph 15 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) and redesignated as subsection (m) of that section, undesignated paragraph 17 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 and redesignated as subsection (l) of that section, and undesignated paragraph 23 of such section 5(c) is transferred to the end of section 5(b) of the Home Owners' Loan Act of 1933 and redesignated as section 5(b)(3).

"Residential mortgage."

SEC. 1702. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding the following at the end thereof: "The term 'residential mortgage' is also deemed to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a 'residential mortgage' as defined under the first sentence of this subsection. The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations. A 'secured loan or advance of credit' is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property.".

"Secured loan or advance of credit."

SEC. 1703. This title shall take effect upon enactment.

Effective date. 12 USC 1464 note.

TITLE XVIII—NATIONAL CREDIT UNION CENTRAL LIQUIDITY FACILITY

National Credit Union Central Liquidity Facility Act.

SEC. 1801. This title may be cited as the "National Credit Union Central Liquidity Facility Act".

Short title. 12 USC 1751 note.

SEC. 1802. The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—CENTRAL LIQUIDITY FACILITY

12 USC 1795.

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

"DEFINITIONS

12 USC 1795a.

"SEC. 302. As used in this subchapter, the term—

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

"(2) 'Central Liquidity Facility' or 'Facility' means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserves shall not be considered as part of surplus, and

"(4) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

12 USC 1795b.

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administration and be managed by the Administrator. The United States district court shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

12 USC 1795c.

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members;

Rules and regulations.

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation of natural persons in the affairs or such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

Stock subscriptions.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application and membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this subchapter.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intention to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 per centum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

Membership termination, hearing opportunity.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing, the Administrator determines a member has failed to comply with any provision of this subchapter or regulation issued pursuant thereto.

"CAPITAL STOCK

Subscriptions.
12 USC 1795d.

"Sec. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50.

"(b) The capital stock of the Facility—

"(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any Agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this subchapter shall be transferred to the Facility. The remainder may be held by the member on call of the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

Application.
12 USC 1795e.

"Sec. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs. The Administrator shall approve or deny any such application within five working days after receiving it. The Administrator shall not approve an application for credit the intent of which is to expand credit union portfolios.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator after giving due consideration to creditworthiness.

"(3) The Administrator shall not advance funds for the benefit of a credit union whose share or deposit accounts are insured by a State share or deposit guaranty credit union, insurance corporation, or guaranty association, without consultation with the appropriate State share or deposit guaranty credit union, insurance corporation, or guaranty association.

Certification.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to $500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

"POWERS OF THE ADMINISTRATOR

12 USC 1795f.

"SEC. 307. The Administrator on behalf of the Facility shall have the ability to—

"(1) prescribe the manner in which the general business of the Facility shall be conducted;

Rules and regulations.

"(2) prescribe rules and regulations to carry out this subchapter;

"(3) determine the expenditures incurred by the Administration to carry out this subchapter, and the expenditures incurred by the Facility to carry out subchapters I and II of this chapter, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source, provided that the total face value of these obligations shall not exceed twelve times the subscribed capital stock and surplus of the Facility; and

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"(12) appoint officers and employees to assist in carrying out this subchapter, who shall be appointed subject to the provisions of title 5, United States Code;

"(13) conduct business, carry on operations, have offices, and exercise the powers granted by this subchapter in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed, or any interest therein, wherever situated;

Contracts.

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts; and

"(16) advance funds on a fully secured basis to a State credit union share or deposit insurance corporation, guaranty credit union, or guaranty association. Such advance shall not exceed twelve months in maturity, shall be relent at an interest rate not exceeding that imposed by the Facility, and shall not be renewable.

"DEPOSITORIES, CUSTODIANS, AND FISCAL AGENTS

12 USC 1795g.

"SEC. 308. The Federal Reserve Banks are authorized to act as depositories, custodians and/or fiscal agents for the Central Liquidity Facility in the general performance of its powers conferred by this subchapter. Each Federal Reserve Bank when designated by the Administrator as fiscal agent for the Central Liquidity Facility, shall be entitled to be reimbursed for all expenses incurred as such fiscal agent.

"AUDIT OF FINANCIAL TRANSACTIONS

Rules and regulations.
12 USC 1795h.

"SEC. 309. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller may prescribe.

"ANNUAL REPORT

12 USC 1795i.

"SEC. 310. The annual report required by section 102(e) shall include a full report of the activities of the Facility.".

SEC. 1803. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of subchapter III," after "exceeding".

SEC. 1804. Section 709 of title 18 of the United States Code is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

False advertising.

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility', or the letters 'NCUA', 'NCUSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or".

Sec. 1805. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended—

(1) by striking out "and" before "(8)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (9) the National Credit Union Administration Central Liquidity Facility".

Effective date. 12 USC 1795 note.

Sec. 1806. This title shall take effect on October 1, 1979.

TITLE XIX—EXPORT-IMPORT BANK ACT AMENDMENTS

Export-Import Bank Act Amendments of 1978. Short title. 12 USC 635 note.

Sec. 1901. That this title may be cited as the "Export-Import Bank Act Amendments of 1978".

PRENOTIFICATION

12 USC 635.

Sec. 1902. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.".

FRACTIONAL CHARGES

12 USC 635.

Sec. 1903. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

DENIAL OF EXPORT APPLICATIONS

12 USC 635.

Sec. 1904. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations".

AUTHORIZATION

12 USC 635e.

SEC. 1905. Section 7(a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$40,000,000,000".

EXTENSION OF AUTHORITY

12 USC 635f.

SEC. 1906. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30, 1983".

ENERGY POLICY

12 USC 635.

SEC. 1907. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

Ante, p. 148.
22 USC 2151q.

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.".

12 USC 635g.

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978, and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.".

Supra.

EXPORT CREDIT COMPETITION

Negotiations.
12 USC 635a–1.

SEC. 1908. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

Report to Congress.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

12 USC 635.

SEC. 1909. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph:

"(7) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under section 9(a) of this Act a description of the measures undertaken by it pursuant to this subsection.".

12 USC 635.

SEC. 1910. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by striking the words "goods and related services" in the first sentence and inserting in lieu thereof "manufactured goods, agricultural products, and other goods and services".

Regulations.
12 USC 635a-2.

SEC. 1911. The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any loan or financial guarantee is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous loans or financial guarantees and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment.

Inquiry.
12 USC 635a-3.

SEC. 1912. (a)(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "noncompetitive financing" is being offered.

(2) If the Secretary determines that such foreign "noncompetitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

Notification.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if he determines that:

(1) the availability of foreign official noncompetitive financing is likely to be a determining factor in the sale, and

(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.

(c) Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: *Provided, however*, That loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended.

42 USC 2153e-1.

SEC. 1913. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.

12 USC 635e.

SEC. 1914. Section 7(a) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following: "All spending authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 1915. Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting at the end thereof the following new paragraph:

Government of the Republic of South Africa support, extension of credit prohibition.

"(8) In no event shall the Bank guarantee, insure, or extend credit or participate in the extension of credit (a) in support of any export which would contribute to enabling the Government of the Republic of South Africa to maintain or enforce apartheid; (b) in support of any export to the Government of the Republic of South Africa or its agencies unless the President determines that significant progress toward the elimination of apartheid has been made and transmits to the Congress a statement describing and explaining that determination; or (c) in support of any export to other purchasers in the Republic of South Africa unless the United States Secretary of State certifies that the purchaser has endorsed and has proceeded toward the implementation of the following principles: nonsegregation of the races in all work facilities; equal and fair employment for all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare nonwhite South Africans for supervisory, administrative, clerical, and technical jobs; increasing the number of nonwhites in management and supervisory positions; a willingness to engage in collective bargaining with labor unions; and improving the quality of life for employees in such areas as housing, transportation, schooling, recreation, and health facilities.".

SEC. 1916. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting after "in matters affecting small business concerns;" the following: "that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives;".

SEC. 1917. This title shall take effect upon enactment.

Effective date.
12 USC 635 note.

TITLE XX—ELECTRONIC FUND TRANSFERS

SEC. 2001. The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

Electronic Fund Transfer Act.
15 USC 1601 note.

"TITLE IX—ELECTRONIC FUND TRANSFERS

"§ 901. Short title

"This title may be cited as the 'Electronic Fund Transfer Act'.

15 USC 1693.

"§ 902. Findings and purpose

"(a) The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

"(b) It is the purpose of this title to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective of this title, however, is the provision of individual consumer rights.

15 USC 1693a.

"§ 903. Definitions

"As used in this title—

"(1) the term 'accepted card or other means of access' means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

"(2) the term 'account' means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 103(i) of this Act), as described in regulations of the Board, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'business day' means any day on which the offices of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

"(5) the term 'consumer' means a natural person;

"(6) the term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account:

"(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

"(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated;

as determined under regulations of the Board;

"(7) the term 'electronic terminal' means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

"(8) the term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer;

"(9) the term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

"(10) the term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

"(11) the term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

15 USC 1693b.

"§ 904. Regulations

"(a) The Board shall prescribe regulations to carry out the purposes of this title. In prescribing such regulations, the Board shall:

"(1) consult with the other agencies referred to in section 917 and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services,

"(2) prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers, including the extent to which additional documentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and small financial institutions and the availability of such services to different classes of consumers, particularly low income consumers,

"(3) to the extent practicable, the Board shall demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions, and

"(4) any proposed regulations and accompanying analyses shall be sent promptly to Congress by the Board.

"(b) The Board shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 905 and to aid consumers in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. With respect to the disclosures required by section 905(a) (3) and (4), the Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

Notice in Federal Register.

"(c) Regulations prescribed hereunder may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. The Board shall by regulation modify the requirements imposed by this title on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of this title.

"(d) In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.

15 USC 1693c.

"§ 905. Terms and conditions of transfers

"(a) The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Board. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

"(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

"(2) the telephone number and address of the person or office to be notified in the event the consumer believes than an unauthorized electronic fund transfer has been or may be effected;

"(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system, as determined by the Board;

"(4) any charges for electronic fund transfers or for the right to make such transfers;

"(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

"(6) the consumer's right to receive documentation of electronic fund transfers under section 906;

"(7) a summary, in a form prescribed by regulations of the Board, of the error resolution provisions of section 908 and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

"(8) the financial institution's liability to the consumer under section 910; and

"(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons.

Notification.

"(b) A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a)(3), the Board shall require subsequent notification if such a change is made permanent.

"(c) For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this title, the information required to be disclosed to the consumer under subsection (a) shall be disclosed not later than the earlier of—

"(1) the first periodic statement required by section 906(c) after the effective date of this title; or

"(2) thirty days after the effective date of this title.

"§ 906. Documentation of transfers; periodic statements

15 USC 1693d.

"(a) For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

"(1) the amount involved and date the transfer is initiated;

"(2) the type of transfer;

"(3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;

"(4) the identity of any third party to whom or from whom funds are transferred; and

"(5) the location or identification of the electronic terminal involved.

"(b) For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Board. The means of notice elected shall be disclosed to the consumer in accordance with section 905.

"(c) A financial institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsections (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

"(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

"(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

"(3) the balances in the consumer's account at the beginning of the period and at the close of the period; and

"(4) the address and telephone number to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption 'Direct Inquiries To:' or other similar language indicating that the address and number are to be used for such inquiries or notices.

"(d) In the case of a consumer's passbook account which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, a financial institution may, in lieu of complying with the requirements of subsection (c), upon presentation of the passbook provide the consumer in writing with the amount and date of each such transfer involving the account since the passbook was last presented.

"(e) In the case of a consumer's account, other than a passbook account, which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, the financial institution may provide a periodic statement on a quarterly basis which otherwise complies with the requirements of subsection (c).

"(f) In any action involving a consumer, any documentation required by this section to be given to the consumer which indicates that an electronic fund transfer was made to another person shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

15 USC 1693e.

"§ 907. Preauthorized transfers

"(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

"(b) In the case of preauthorized transfers from a consumer's account to the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Board, of the amount to be transferred and the scheduled date of the transfer.

15 USC 1693f.

"§ 908. Error resolution

"(a) If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 906 (a), (c), or (d) or notification pursuant to section 906(b), receives oral or written notice in which the consumer—

"(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer;

"(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 906(b), the consumer's account, contains an error and the amount of such error; and

"(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred,

the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within ten business days of an oral notification of error if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent. A financial institution which requires written confirmation in accordance with the previous sentence need not provisionally recredit a consumer's account in accordance with subsection (c), nor shall the financial institution be liable under subsection (e) if the written confirmation is not received within the ten-day period referred to in the previous sentence.

"(b) If the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination, correct the error, subject to section 909, including the crediting of interest where applicable.

Investigation.

"(c) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

"(d) If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

"(e) If in any action under section 915, the court finds that—

"(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

"(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation,

then the consumer shall be entitled to treble damages determined under section 915(a)(1).

"(f) For the purpose of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic fund transfer from or to the consumer's account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;

"(4) a computational error by the financial institution;

"(5) the consumer's receipt of an incorrect amount of money from an electronic terminal;

"(6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this title; or

"(7) any other error described in regulations of the Board.

15 USC 1693g.

"§ 909. Consumer liability for unauthorized transfers

"(a) A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or other meanas of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

"(1) $50; or

"(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 906. In addition, reimbursement need not be made to the consumer for losses which the financial institution establishes would not have occurred but for the failure of the consumer to report any loss or theft of a card or other means of access within two business days after the consumer learns of the loss or theft (or in extenuating circumstances such as extended travel or hospitalization, within a longer period which is reasonable under the circumstances), but the consumer's liability under this subsection in any such case may not exceed a total of $500, or the amount of unauthorized electronic fund transfers which occur following the close of two business days (or such longer period) after the consumer learns of the loss or theft but prior to notice to the financial institution under this subsection, whichever is less.

"(b) In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a) (1) and (2) were in fact made in accordance with such section.

"(c) In the event of a transaction which involves both an unauthorized electronic fund transfer and an extension of credit as defined in section 103(e) of this Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section. 15 USC 1602.

"(d) Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

"(e) Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

"§ 910. Liability of financial institutions

15 USC 1693h.

"(a) Subject to subsections (b) and (c), a financial institution shall be liable to a consumer for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

"(A) the consumer's account has insufficient funds;

"(B) the funds are subject to legal process or other encumbrance restricting such transfer;

"(C) such transfer would exceed an established credit limit;

"(D) an electronic terminal has insufficient cash to complete the transaction; or

"(E) as otherwise provided in regulations of the Board;

"(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financal institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer, and

"(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

"(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the case of a failure described in subsection (a) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

15 USC 1693i.

"§ 911. Issuance of cards or other means of access

"(a) No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the consumer may dispose of such code, card, or other means of access if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 912. Suspension of obligations

15 USC 1693j.

"If a system malfunction prevents the effectuation of an electronic fund transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electronic fund transfer.

"§ 913. Compulsory use of electronic fund transfers

15 USC 1693k.

"No person may—

"(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

"(2) require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit.

"§ 914. Waiver of rights

15 USC 1693*l*.

"No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection than contained in this title or a waiver given in settlement of a dispute or action.

"§ 915. Civil liability

15 USC 1693m.

"(a) Except as otherwise provided by this section and section 910, any person who fails to comply with any provision of this title with respect to any consumer, except for an error resolved in accordance with section 908, is liable to such consumer in an amount equal to the sum of—

"(1) any actual damage sustained by such consumer as a result of such failure;

"(2)(A) in the case of an individual action, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

"(c) Except as provided in section 910, a person may not be held liable in any action brought under this section for a violation of this title if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No provision of this section or section 916 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issued by the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(e) A person has no liability under this section for any failure to comply with any requirement under this title if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this title, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 910.

"(f) On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(g) Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

15 USC 1693n.

"§ 916. Criminal liability

"(a) Whoever knowingly and willfully—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title or any regulation issued thereunder; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'debit instrument' means a card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer.

"Debit instrument."

"§ 917. Administrative enforcement

15 USC 1693o.

"(a) Compliance with the requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

12 USC 1818.

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings

12 USC 1464.
12 USC 1730.
12 USC 1426, 1437.

and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

12 USC 1751. "(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

49 USC 1301 note. "(4) the Federal Aviation Act of 1958, by the Civil Aeronautics Board, with respect to any air carrier or foreign air carrier subject to that Act; and

15 USC 78a. "(5) the Securities Exchange Act of 1934, by the Securities and Exchange Commission, with respect to any broker or dealer subject to that Act.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act. 15 USC 41 *et seq.*

15 USC 1693p. "§ 918. Reports to Congress

"(a) Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken under section 917 of this title. In such report, the Board shall particularly address the effects of this title on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection. The report of the Attorney General shall also contain an analysis of the impact of this title on the operation, workload, and efficiency of the Federal courts.

"(b) In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of persons subject to this title.

"§ 919. Relation to State laws

15 USC 1693q.

"This title does not annul, alter, or affect the laws of any State relating to electronic fund transfers, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. A State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection afforded by this title. The Board shall, upon its own motion or upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether a State requirement is inconsistent or affords greater protection. If the Board determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This title does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

"§ 920. Exemption for State regulation

15 USC 1693r.

"The Board shall by regulation exempt from the requirements of this title any class of electronic fund transfers within any State if the Board determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 921. Effective date

15 USC 1693 note.

"This title takes effect upon the expiration of eighteen months from the date of its enactment, except that sections 909 and 911 take effect upon the expiration of ninety days after the date of enactment.".

TITLE XXI—EFFECTIVE DATE

SEC. 2101. Except as otherwise provided herein, this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment. 12 USC 375b note.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1115 accompanying H.R. 12157, No. 95-1315 accompanying H.R. 13007, and No. 95-1383 accompanying H.R. 13471 all from (Comm. on Banking, Finance and Urban Affairs).

SENATE REPORTS: No. 95-323 accompanying S. 71, No. 95-844 accompanying S. 3077, No. 95-915 accompanying S. 3156, and No. 95-1273 accompanying S. 3499 all from (Comm. on Banking, Housing, and Urban Affairs) and No. 95-1039 accompanying S. 3077 (Comm. on Environmental and Public Works).

CONGRESSIONAL RECORD, Vol. 124 (1978):
- July 27, H.R. 12157 considered and passed House.
- Aug. 5, S. 71 considered and passed Senate.
- Aug. 11, H.R. 13007 considered and passed House.
- Oct. 11, considered and passed House.
- Oct. 12, considered and passed Senate, amended.
- Oct. 15, House concurred in Senate amendments with amendments; Senate concurred in House amendments.

Public Law 95-631
95th Congress

An Act

Nov. 10, 1978
[S. 2796]

To amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes.

Consumer Product Safety Act, amendment.
Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

Commission Chairman.

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by striking out "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner." and inserting in lieu thereof the following: "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.".

(b) Section 4(i) of the Consumer Product Safety Act (15 U.S.C. 2053(i)) is amended by striking out "before January 1, 1978," in paragraph (1)(A) thereof and by striking out "before January 1, 1978" in paragraph (1)(B) thereof.

Consumer product safety standards, development proceedings.

SEC. 3. (a) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively;

(3) in subparagraph (C) as so redesignated in paragraph (2), by striking out "and" at the end thereof; and

(4) by striking out subparagraph (D), as so redesignated in paragraph (2), and the two sentences following subparagraph (D), and inserting in lieu thereof the following:

"(D) include—

"(i) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to submit to the Commission an existing standard as the proposed consumer product safety standard; and

"(ii) (I) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to offer to develop the proposed consumer product safety standard; or

"(II) a statement that the Commission intends to develop the proposed consumer product safety standard; and

"(E) specify the period of time in which the offeror of an accepted offer and the Commission, or the Commission acting by itself, is to develop the proposed standard.".

15 USC 2056.

(b) Section 7(b) of the Consumer Product Safety Act, as amended in subsection (a) is further amended by adding at the end thereof the following new paragraph:

Standards, consultation and publication.

"(2) After consultation with such interested parties as the Commission shall deem necessary, the Commission may develop a consumer product safety standard without making any invitation specified in paragraph (1)(D)(ii)(I) and may publish such standard as a proposed consumer product safety rule whenever the Commission determines, taking into account—

"(i) the nature of the risk of injury associated with such product;

"(ii) the expertise of the Commission with respect to such risk of injury,

"(iii) the expertise of the Commission in developing consumer product safety standards, and

"(iv) the resources available to the Commission and the priorities established by the Commission,

that to develop a consumer product safety standard which would adequately protect the public from such risk of injury, it is more expeditious for the Commission to develop the standard than to proceed under paragraph (1)(D)(ii)(I) for its development. The Commission shall give interested persons opportunity to submit written comments to the Commission during the thirty-day period following publication of such determination under paragraph (1).".

Comments.

Sec. 4. (a)(1) Section 7(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(1)) is amended by inserting "subsection(b)(2) and by" after "as provided by", by striking out "subsection (b)(4)(B)" and inserting in lieu thereof "subsection (b)(1)(D)(ii)(I)", and by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)(E)".

(2) the first sentence of section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended—

(A) by inserting "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e)," after "under this subsection";

(B) by inserting "or the person's cost with respect to such participation" after "safety standard"; and

(C) by inserting "or person" after "offeror".

Regulations.

(3) Section 7(d) of the Consumer Product Safety Act (15 U.S.C. 2056(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission shall prescribe regulations governing the development of proposed consumer product safety rules by the Commission under subsection (b)(2) and subsection (e)(1). Such regulations shall include the requirements specified in subparagraphs (B), (C), and (D) of paragraph (3).".

(b) Section 7(e) of the Consumer Product Safety Act (15 U.S.C. 2056(e)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b)(1)(D)(ii)(I) for the development of a consumer product safety standard and if the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, then the Commission may develop a proposed consumer safety rule with respect to such product and publish such proposed rule.

"(2) If the Commission accepts an offer to develop a proposed consumer product safety standard under subsection (b)(1)(D)(ii)(I), the Commission may not develop a proposed consumer product safety rule or publish such proposed rule unless—

"(A) the development period specified in subsection (b)(1)(E) for such standard ends;

"(B) no offeror whose offer was accepted is making satisfactory progress in the development of such proposed standard; or

"(C) the sole offer accepted under subsection (b)(1)(D)(ii)(I) is that of an offeror which is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard.".

(c) Section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) and the Commission does not publish a proposed consumer product safety standard within forty-five days after the expiration of the period specified in subsection (b)(1)(E), the Commission shall—

Publication in Federal Register.

"(1) by notice published in the Federal Register, terminate the proceeding begun by such notice published pursuant to subsection (b); or

"(2) publish in the Federal Register the reasons for not publishing the proposed standard, and specify the time period within which either such standard will be published or the proceeding begun by such notice published pursuant to subsection (b) will be terminated without publication of such proposed standard.

The reasons referred to in paragraph (2) may include a statement that the Commission is considering other approaches (such as a voluntary consumer safety standard adopted by persons who would be subject to such proposed standard) to eliminate the unreasonable risk of injury that is the subject of such proceeding.".

(d) Paragraphs (1) and (2) of section 9(a) of the Consumer Product Safety Act (15 U.S.C. 2058(a)) are each amended by striking out "section 7(c), (e)(1), or (f) or section 8" and inserting in lieu thereof "section 7 or 8".

SEC. 5. Section 7(c) of the Consumer Product Safety Act (15 U.S.C. 2056(c)) is amended to read as follows:

"(c) If the Commission determines—

"(1) that any standard submitted to it pursuant to an invitation made under subsection (b)(1)(D)(i), or

"(2) that any standard (other than one submitted under subsection (b)(1)(D)(i)) issued, adopted, or proposed by any Federal department or agency (other than the Commission) or by any other qualified agency, organization, or institution,

if promulgated (in whole, in part, or in combination with any other standard described in paragraph (1) or (2) or any part of such a standard) as a consumer product safety rule, would eliminate or reduce an unreasonable risk of injury associated with a consumer product, the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule. In the case of a standard described in paragraph (2), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule without making an invitation under subsection (b)(1)(D)(i).".

Exports.

SEC. 6. (a) Section 18 of the Consumer Product Safety Act (15 U.S.C. 2067) is amended—

(1) by inserting "(a)" after "SEC. 18.", by inserting "(A)" after "unless", and by inserting before ", and (2)" the following: ", or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States,"; and

(2) by adding at the end thereof the following new subsection:

Statement filing and notification to country.

"(b) Not less than thirty days before any person exports to a foreign country any product—

"(1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

"(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9,

15 USC 2058.

such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

Exemption, petition.

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended—

(1) in paragraph (8), by striking out "or";

(2) in paragraph (9), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (9) the following new paragraph:

"(10) fail to file a statement with the Commission pursuant to section 18(b).".

(c) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended in paragraph (1) by striking out "(8), or (9)" and inserting in lieu thereof "(8), (9), or (10)".

SEC. 7. (a) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following new subsection:

"(i) The failure to notify the Consumer Product Safety Commission with respect to exports, pursuant to section 14(d).".

Post, p. 3746.

(b) Clause (3) of section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1262(b)) is amended—

15 USC 1264.

(1) by striking out "in respect of" and inserting in lieu thereof "with respect to"; and

(2) by inserting before ", this clause" the following: "or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States".

(c) Section 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273) is amended—

(1) in the section heading by adding "AND EXPORTS" after "IMPORTS"; and

Statement, filing and notification to foreign country.

(2) by adding at the end thereof the following new subsection:

"(d) Not less than thirty days before any person exports to a foreign country any misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this Act. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

Exemption, petition.

SEC. 8. (a) Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended—

(1) in subsection (a) by inserting before "; except that" the following "; unless the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States";

(2) in subsection (b) by inserting before "; except that" the following ", unless the Commission determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States"; and

(3) by adding at the end the following new subsection:

Statement, filing and notification to foreign country.

"(c) Not less than thirty days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under this Act, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such fabric, related material, or product, the country and port of destination of such fabric, related material, or product, and the quantity of such fabric, related material, or product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.". Exemption, petition.

(b) Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended by inserting after "8(b) of this Act" the following: ", or who fails to comply with section 15(c) of this Act,". *Ante*, p. 3746.

SEC. 9. Section 2(l) of the Federal Hazardous Substances Act (15 U.S.C. 1261(l)) is amended to read as follows:

"(l)(1) The terms 'extremely flammable', 'flammable', and 'combustible' as applied to any substance, liquid, solid, or the content of a self-pressurized container shall be defined by regulations issued by the Commission. Definitions, regulations.

"(2) The test methods found by the Commission to be generally applicable for defining the flammability or combustibility characteristics of any such substance shall also be specified in such regulations.

"(3) In establishing definitions and test methods related to flammability and combustibility, the Commission shall consider the existing definitions and test methods of other Federal agencies involved in the regulation of flammable and combustible substances in storage, transportation and use; and to the extent possible, shall establish compatible definitions and test methods.

"(4) Until such time as the Commission issues a regulation under paragraph (1) defining the term 'combustible' as applied to liquids, such term shall apply to any liquid which has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue Open Cup Tester.".

SEC. 10. The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end thereof the following new section:

"TOXICOLOGICAL ADVISORY BOARD

"SEC. 20. (a)(1) Within 180 days after the date of the enactment of this section, the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') shall establish, in accordance with subsection (b), a Toxicological Advisory Board (hereinafter in this section referred to as the 'Board') to advise the Commission on precautionary labeling for hazardous substances. The Board shall provide scientific and technical advice to the Commission concerning— Establishment and functions. 15 USC 1275.

"(A) proper labeling under sections 2(p)(1) and 3(b), with special attention to— 15 USC 1261, 1262.

"(i) the description of precautionary measures required under section 2(p)(1)(F);

"(ii) the statement describing the hazards associated with a hazardous substance as required under section 2(p)(1)(E); and

"(iii) instructions for first-aid treatment under section 2(p)(1)(G); and

"(B) the exemption of certain substances from labeling requirements under this Act as permitted under section 3(c).

15 USC 1262.

Review and recommendations.

15 USC 1261.

"(2) In carrying out its duties under paragraph (1)(A), the Board shall review any labeling requirements or guidelines which have been established by the Commission under section 2(p)(1) or 3(b). Based upon its review the Board shall develop and submit to the Commission, within one year after the date that the Board is established, any recommendations for revisions in such labeling requirements or guidelines which the Board considers to be appropriate, including any general recommendations which may be of assistance to the Commission in carrying out its responsibilities under section 2(p)(1) or section 3(b). The Board shall periodically review the labeling requirements and guidelines established by the Commission under such sections to determine whether such requirements and guidelines reflect relevant changes in scientific knowledge and shall revise any general recommendations submitted to the Commission under this paragraph to reflect such changes.

Membership.

"(b)(1) The Board shall be composed of nine members appointed by the Commission. Each member of the Board shall be qualified by training and experience in one or more fields applicable to the duties of the Board, and at least three of the members of the Board shall be members of the American Board of Medical Toxicology. The Chairman of the Board shall be elected by the Board from among its members.

Chairman.

"(2) The members of the Board shall be appointed for terms of three years. Members of the Board may be reappointed.

Vacancies.

"(3) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term.

Meetings.

"(4) The Board shall meet at such times and places as may be designated by the Commission in consultation with the Chairman, but not less than two times each year.

Compensation.

"(5) Members of the Board who are not officers or employees of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of such title. Individuals serving as members on the Board shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

Travel allowances.

5 USC 5703.

Termination.

"(c) The Board shall terminate on the date six years after the date it is established under this section.".

SEC. 11. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"Rule."

"(m)(1) For purposes of this subsection, the term 'rule' means—

"(A) any rule prescribed by the Commission pursuant to section 9;

15 USC 2058.

"(B) any rule prescribed by the Commission pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(B));

"(C) any rule prescribed by the Commission under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472); and

"(D) any rule prescribed by the Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

Study.

Report to Congress.

"(2) Within 18 months after the effective date of this subsection, the Commission shall begin a study of all the rules which the Commission has issued and which are in effect on such effective date. At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress which shall, to the extent practicable and appropriate (taking into account the resources and priorities of the Commission)—

"(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendations; and

"(B) recommend the initiation of appropriate rulemaking proceedings under this Act to make changes or modifications in particular rules or portions of rules.

Notification to House and Senate.

"(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of the Congress of such proposal at the time such proposal is published in the Federal Register.

"(4)(A) To the extent practicable and appropriate (taking into account the resources and priorities of the Commission), the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the effective date of this subsection—

"(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

"(ii) a paperwork impact analysis containing—

"(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records required to be kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(III) a description of steps being taken by the Commission to ensure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

"(iii) a judicial impact analysis showing the effect of such rule on the workload of the Federal courts; and

"(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

"(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this para-

Noncompliance, statement.

graph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

"(ii) if any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.".

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1164 accompanying H.R. 12442 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-889 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 4, considered and passed Senate.

Oct. 15, considered and passed House, amended; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 10, Presidential statement.

Public Law 95-632
95th Congress

An Act

Nov. 10, 1978
[S. 2899]

To amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Endangered Species Act Amendments of 1978.
16 USC 1531 note.
Definitions.

Sec. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting before paragraph (1) thereof the following new paragraph:

"(1) The term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction.";

(2) by inserting after paragraph (4) as redesignated by paragraph (7) of this section the following new paragraph:

"(5)(A) The term 'critical habitat' for a threatened or endangered species means—

"(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

16 USC 1533.

"(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

"(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

"(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.";

(3) by inserting after paragraph (6), as redesignated by paragraph (7) of this section the following new paragraph:

"(7) The term 'Federal agency' means any department, agency, or instrumentality of the United States.";

(4) by inserting after paragraph (10), as redesignated by paragraph (7) of this section, the following new paragraphs:

"(11) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

***Post*, p. 3752.**

"(12) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency for which exemption is sought under section 7, any person whose application to such agency for a permit or license has been denied primarily because of the application of section 7(a) to such agency action."; *Infra.*

(5) by striking out paragraph (16), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(16) The term 'species' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.";

(6) by striking out paragraph (18), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(18) the term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State."; and

(7) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, by redesignating paragraph (4) as paragraph (6), by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively, and by redesignating paragraphs (8) through (16) as paragraphs (13) through (21), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

Review.

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

16 USC 1533.

"(b) SECRETARY'S OPINION.—Consultation under subsection (a) with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary. Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. The Secretary shall suggest those reasonable and

Statement and summary.

prudent alternatives which he believes would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying the critical habitat of such species, and which can be taken by the Federal agency or the permit or license applicant in implementing the agency action.

"(c) BIOLOGICAL ASSESSMENT.—To facilitate compliance with the requirements of subsection (a), each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying or destroying the critical habitat of any such species.

Endangered Species Committee.

"(e)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

Applications, review.

"(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

Membership.

"(3) The Committee shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council of Economic Advisors.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior.

"(F) The Administrator of the National Oceanic and Atmospheric Administration.

Presidential appointment.

"(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

Travel allowance.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Quorum.

"(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

Chairman.

"(B) The Secretary of the Interior shall be the Chairman of the Committee.

Meetings.

"(C) The Committee shall meet at the call of the Chairman or five of its members.

"(D) All meetings and records of the Committee shall be open to the public.

"(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(7)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

5 USC 552a note.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

Rules and regulations.

"(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

Subpenas.

"(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(10) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

Applications, submittal.

"(f) Regulations.—Not later than 90 days after the date of enactment of the Endangered Species Act Amendments of 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of the Federal agency and the Secretary; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(g) Application for Exemption and Consideration by Review Board.—(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a), the Secretary's opinion under subsection (b) indicates that the agency action may jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify the critical habitat of such species. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (h) after a report is made by the review board. The applicant for an exemption shall be referred to as the 'exemption applicant' in this section.

"(2)(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

Notification.

"(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly notify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application.

Review board, establishment.

"(3)(A) A review board shall be established for purposes of considering an application for exemption and submitting a report to the Endangered Species Committee under this subsection as follows:

"(i) One individual shall be appointed to the board by the Secretary not later than 15 days after an application is submitted pursuant to paragraph (2).

Appointment.

"(ii) One individual shall be appointed to the board by the President, not later than 30 days after an application is submitted pursuant to paragraph (2) and after consideration of any recommendations received pursuant to paragraph (2)(B). An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

"(iii) One administrative law judge shall be selected to serve on the board by the Civil Service Commission in the same manner as administrative law judges are selected under section 3344 of title 5 of the United States Code to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

Compensation.

"(B) Members of a review board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

5 USC 5332 note.
Per diem and travel allowances.

"(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

Determination.

"(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (a), and within 60 days after its appointment or within such longer time as is mutually agreed upon between the exemption applicant and the Secretary, to make a determination, by a majority vote, (1) whether an irresolvable conflict exists and (2) whether such exemption applicant has—

"(A) carried out its consultation responsibilities as described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which will avoid jeopardizing the continued existence of an endangered or threatened species or result in the adverse modification or destruction of a critical habitat;

"(B) conducted any biological assessment required of it by subsection (c); and

"(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).

Any determination by the review board that an irresolvable conflict does not exist or that the exemption applicant has not met the requirements of subparagraph (A), (B), or (C) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

5 USC 701 *et seq.*

"(6) If the review board determines that an irresolvable conflict exists and makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to prepare the report to be submitted under paragraph (7).

Report to Committee.

"(7) Within 180 days after making the determinations under paragraph (6), the review board shall submit to the Committee a report discussing—

"(A) the availability of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species or the critical habitat;

"(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

"(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee.

"(8) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5, United States Code.

"(9) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

"(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

5 USC 552a note.

"(B) subject to the Privacy Act of 1974, request of any Federal agency or applicant information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and

"(C) use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(10) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carry out its duties under this section.

"(11) The Administrator of the General Services Administration shall provide to a review board, on a reimbursable basis, such administrative support services as the review board may request.

"(12) All meetings and records of review boards shall be open to the public.

Determination.

"(h) EXEMPTION.—(1) The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the report of the review board under subsection (g)(7). The Committee shall grant an exemption from the requirements of subsection (a) for an agency action if, by a vote of not less than five of its members voting in person—

"(A) it determines on the record, based on the report of the review board and on such other testimony or evidence as it may receive, that—

"(i) there are no reasonable and prudent alternatives to the agency action;

"(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(iii) the action is of regional or national significance; and

"(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

5 USC 701 *et seq.*

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under subsection (h) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action: *Provided*, That a biological assessment has been conducted under subsection (c).

"(B) An exemption shall not be permanent under subparagraph (A) if the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of the species. If the Secretary so finds, the Committee shall determine within 30 days after such finding whether to grant an exemption for the agency action notwithstanding the Secretary's finding.

Certification.

"(i) Review by Secretary of State.—Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

Publication in Federal Register.

Exemption.

"(j) Notwithstanding any other provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

"(k) Special Provisions.—An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

"(l) Committee Orders.—(1) If the Committee determines under subsection (h) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) which shall be carried out and paid for by the exemption applicant in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

"(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

Report to Council on Environmental Quality.

Report availability, publication in Federal Register.

"(m) Notice.—The 60-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a) of this section.

16 USC 1540.

"(n) Judicial Review.—Any person, as defined by section 3(13) of this Act, may obtain judicial review, under chapter 7 of title 5 of the United States Code, of any decision of the Endangered Species Committee under subsection (h) in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112, of title 28, United States Code. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

16 USC 1532.
5 USC 701 *et seq.*

"(o) Exception on Taking.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (h) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

16 USC 1533, 1538.

"(p) Exemptions in Presidentially Declared Disaster Areas.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding

42 USC 5121 note.

42 USC 5171, 5172.

any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

"(q) AUTHORIZATION.—There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for fiscal year 1979, and not to exceed $300,000 for the period beginning October 1, 1979, and ending March 31, 1980. The Chairman of the Committee shall report to the Congress before the end of fiscal year 1979 with respect to the adequacy of the budget authority contained in this subsection.".

Report to Congress.

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—" and by adding the following new paragraph:

"(2)(A) This section shall not apply to—

"(i) any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978; or

"(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

Regulation.

"(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

16 USC 1533, 1538.

"(h) CERTAIN ANTIQUE ARTICLES.—(1) Sections 4(d), 9(a), and 9(c) do not apply to any article (other than scrimshaw) which—

"(A) was made before 1830;

"(B) is composed in whole or in part of any endangered species or threatened species listed under section 4;

"(C) has not been repaired or modified with any part of any such species on or after the date of the enactment of this Act; and

"(D) is entered at a port designated under paragraph (3).

Documentation submittal, regulations.

"(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1)(A), (B), and (C).

Port designation, consultation.

"(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1)(A), (B), and (C) must be entered into the customs territory of the United States.

Ante, p. 3751.

"(4) Any person who imported, after December 27, 1973, and on or before the date of the enactment of the Endangered Species Act Amendments of 1978, any article described in paragraph (1) which—

"(A) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 4;

16 USC 1533.

"(B) was forfeited to the United States before such date of the enactment, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 11; and

Infra.

"(C) is in the custody of the United States on such date of enactment;

may, before the close of the one-year period beginning on such date of enactment, make application to the Secretary for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary prescribes. If on the basis of any such application which is timely filed, the Secretary is satisfied that the requirements of this paragraph are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after the date of return, be deemed to be a lawful importation under this Act.

Exemption.

"(i)(1) TELLICO AND GRAYROCKS PROJECTS.—Notwithstanding any other provision of this Act, the Committee shall, within 30 days of the date of the enactment of the Endangered Species Act Amendments of 1978, proceed to consider the exemption of the Tellico Dam and Reservoir Project and the Grayrocks Dam and Reservoir Project from the requirements of section 7(a). For the purposes of such consideration, the Committee shall grant an exemption to such projects if the criteria of section 7(h)(1)(A)(i) and 7(h)(1)(A)(ii) are met. A decision on any such exemption shall be made within 90 days after the date of the enactment of the Endangered Species Act Amendments of 1978. If no decision is made within such 90-day period, such project shall be deemed to be exempted from the requirements of section 7(a).

Ante, p. 3752.

Project modifications.

"(2) Following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration, the Secretary of the Interior, and the Secretary of the Army, shall require such modifications in the operation or design of the project as they may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species or result in the destruction or adverse modification of habitat of such species which is or has been determined to be critical by the Secretary of the Interior, after consultation as appropriate with the affected States.".

Civil penalties.

SEC. 6. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended—

(1) in the first and second sentences of subsection (a)(1) by striking out "or who knowingly commits an act in the course of a commercial activity which violates" each place it appears and inserting in lieu thereof "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates";

(2) in the third sentence of subsection (a)(1) by striking out "$1,000" and inserting in lieu thereof "$500";

(3) in subsection (b)(1) by striking out "willfully commits an act which" each place it appears and inserting in lieu thereof "knowingly";

(4) in subsection (b)(2) by inserting "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" after "authorizing".

SEC. 7. Section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 8. Section 11(b) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.".

SEC. 9. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

16 USC 1535, *Ante*, p. 3752.

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1977, and the fiscal year September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, and not to exceed $12,500,000 for the period beginning October 1, 1979, and ending March 31, 1980.

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 10. Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c) COOPERATIVE AGREEMENTS.—";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

Cooperative agreement. 16 USC 1535.

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

Determination.

State program, annual reconfirmations.

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

Investigations.

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

Public participation.

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with

16 USC 1533, 1538.

respect to the taking of any resident endangered or threatened species.".

Regulation.

SEC. 11. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.";

Ante, p. 3751.

(2) by amending subsection (c)(1) by striking out "and shall", and by inserting immediately before the *final* period the following: ", and specify any critical habitat within such range";

(3) in subsection (c) by inserting at the end thereof the following new paragraph:

Review and determination.

"(4) The Secretary shall—

"(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

"(B) determine on the basis of such review whether any such species should—

"(i) be removed from such list;

"(ii) be changed in status from an endangered species to a threatened species; or

"(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b).".

(4) by amending subsection (f)—

(A) in paragraph (2)(A) by striking out "In" and inserting in lieu thereof "Except as provided in subparagraph (B), in";

(B) by inserting after subparagraph (A) of paragraph (2) the following new subparagraph:

Regulations.

"(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

Publication in Federal Register.

"(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

"(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

Notice.

"(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

"(iv) shall—

Public meetings and hearing.

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation.";

(C) by redesignating subparagraph (B) of paragraph (2) as subparagraph (C), and by inserting "or (B)" after "Neither subparagraph (A)" in such subparagraph; and

(D) by adding at the end thereof the following new paragraphs:

16 USC 1533.

Publication in Federal Register.

"(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation.

Regulations or withdrawal notice, publication in Federal Register.

"(5) A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species

Ante, p. 3751.

Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment."; and

16 USC 1533.

(5) by adding at the end thereof the following new subsection:

"(g) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.";

5 USC app.

(6) in subsection (c)(2)—

(A) by striking out "upon" and inserting in lieu thereof "within 90 days of the receipt of";

Publication in Federal Register.

(B) by inserting "and publish in the Federal Register" after "conduct";

(C) by inserting "the status of" after "a review of"; and

(D) by inserting at the end thereof the following: "Such review and finding shall be made and published prior to the initiation of any procedures under subsection (b)(1).".

Critical habitat determination, considerations.

(7) by adding at the end of subsection (b) the following new paragraph:

"(4) In determining the critical habitat of any endangered or threatened species, the Secretary shall consider the economic impact, and any other relevant impacts, of specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species.".

Establishment and implementation.

SEC. 12. That portion of subsection (a) of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534) which precedes paragraph (1) is amended to read as follows:

"(a) PROGRAM.—The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such a program, the appropriate Secretary—".

16 USC 1533.

Summary, publication in Federal Register.

SEC. 13. Paragraph (3) of section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended to read as follows:

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.".

Dr. Eugene L. Vickery, exception.

SEC. 14. Notwithstanding any provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any regulation promulgated or policy established thereunder, the Secretary of the Interior is authorized and directed to release to Doctor Eugene L. Vickery of Lena, Illinois, a narwhale (Monodon monocerus) tusk cane contained in a shipment consigned to him that was seized by agents of the United States Fish and Wildlife Service at O'Hare International Airport, Chicago, Illinois, on November 30, 1977. For purposes of section 9 and section 11 of such Act, Doctor Vickery shall be considered not to have violated any provision of such Act with respect to the importation of such narwhale tusk cane.

Ante, pp. 3760, 3761.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1625 accompanying H.R. 14104 (Comm. on Merchant Marine and Fisheries) and No. 95-1804 (Comm. of Conference).
SENATE REPORT No. 95-874 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 17-19, considered and passed Senate.
Oct. 14, H.R. 14104 considered and passed House; passage vacated, and S. 2899, amended, passed in lieu.
Oct. 15, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 10, Presidential statement.

Public Law 95-633
95th Congress

An Act

Nov. 10, 1978
[S. 2399]

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

Psychotropic Substances Act of 1978.
21 USC 801 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Psychotropic Substances Act of 1978".

TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

21 USC 801a.

SEC. 101. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Sec-

21 USC 801 note.

retary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 102. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health, Education, and Welfare who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health, Education, and Welfare shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

Publication in Federal Register.

"(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health, Education, and Welfare of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health, Education, and Welfare shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

Publication in Federal Register.

"(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a 'schedule notice') that existing legal controls applicable under this title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first determine whether existing legal controls under this title applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

21 USC 301.

"(A) If such requirements are met by such existing controls but the Secretary of Health, Education, and Welfare nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

"(B) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

"(C) If such requirements are not met by such existing controls and the Secretary of Health, Education, and Welfare does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

"(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

"(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

"(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

"(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

"(4)(A) If the Attorney General determines, after consultation with the Secretary of Health, Education, and Welfare, that proceedings initiated under recommendations made under paragraph (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issu-

Notice.

ance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

"(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health, Education, and Welfare and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this title which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

"(i) the decision is reversed, and

"(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

"(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 202(b) and without regard to the procedures prescribed by subsection (a) or (b) of this section.

"(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health, Education, and Welfare or the Attorney General through the *Ante*, p. 3768.

Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.".

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"Convention on Psychotropic Substances."

"(29) The term 'Convention on Psychotropic Substances' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term 'Single Convention on Narcotic Drugs' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.".

21 USC 812 note.

(c) For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act, place such drugs in schedule IV of such Act.

21 USC 811, 812.

SEC. 103. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

SEC. 104. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

21 USC 823.

"(e) In addition to the reporting and recordkeeping requirements under any other provision of this title, each manufacturer registered under section 303 shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this title on manufacturers subject to the requirements of this subsection.".

SEC. 105. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention".

SEC. 106. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the

Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.".

SEC. 107 (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

21 USC 852.

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.".

21 USC 801 note.

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of treaties and other international agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

SEC. 108. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.".

SEC. 109. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823(f)) is amended by adding at the end the following sentence: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 110. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827(c)) is amended by adding the following after and below paragraph (3): "Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.".

SEC. 111. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the following new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers.".

Effective date.
21 USC 801a note.

SEC. 112. This title and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States.

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by inserting ", except as provided in paragraphs (4) and (5) of this subsection," after "such person shall" in the first sentence of subsection (b)(1)(B);

(2) by adding after paragraph (4) of subsection (b) the following new paragraph:

"(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense, except as authorized by this title, phencyclidine (as defined in section 310(c)(2)) shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) of this paragraph, or for a felony under any other provision of this title or title III or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment."; and

Post, p. 3775.

(3) by adding after subsection (c) the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, or

"(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this title,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than $15,000, or both.".

SEC. 202. (a) Part C of the Controlled Substances Act is amended (1) by inserting "; PIPERIDINE REPORTING" at the end of its heading, and (2) by adding after section 309 (21 U.S.C. 829) the following new section:

"PIPERIDINE REPORTING

"SEC. 310. (a)(1) Except as provided under paragraph (3), any person who distributes, sells, or imports any piperidine shall report to the Attorney General such information, in such form and manner, and within such time period or periods (of not less than seven days), concerning the distribution, sale, or importation as the Attorney General may require by regulation, and the person shall preserve a copy of each such report for 2 years. The Attorney General may include in the information required to be reported the following: 21 USC 830.

"(A) The quantity, form, and manner in which, and date on which, the piperidine was distributed, sold, or imported.

"(B)(i) In the case of the distribution or sale of piperidine to an individual, the name, address, and age of the individual and the type of identification presented to confirm the identity of the individual.

"(ii) In the case of the distribution or sale of piperidine to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the piperidine and the type of identification presented to confirm the identity of the individual and of the entity.

"(2) Except as provided under paragraph (3), no person may distribute or sell piperidine unless the recipient or purchaser presents to the distributor or seller identification of such type, to confirm the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of piperidine between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of piperidine to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, sale, or importation of the piperidine to a third person, this subparagraph shall not relieve the distributor, seller, or importer from compliance with paragraph (1) or (2); or

"(C) any distribution, sale, or importation of piperidine with respect to which the Attorney General determines that the report required by paragraph (1) or the presentation of identification required by paragraph (2) is not necessary for the enforcement of this title.

"(b) Any information which is reported to or otherwise obtained by the Department of Justice under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III.

Definitions.
21 USC 841, 842.

"(c) For purposes of this section, section 401(d), and section 402(a)(9):

21 USC 951.

"(1) The term 'import' has the meaning given such term in section 1001(a)(1).

"(2) The term 'phencyclidine' means 1-(1-phenylcyclohexyl) piperidine, its salts, or any immediate precursor, homolog, analog, or derivative (or salt thereof) of 1-(1-phenylcyclohexyl) piperidine that is included in schedule I or II of part B of this title.

"(3) The term 'piperidine' includes its salts and acyl derivatives.".

(b)(1) Section 402(a) of such Act (21 U.S.C. 842(a)) is amended—

(A) by striking out "or" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(C) by adding after paragraph (8) the following new paragraph:

Ante, p. 3775.

"(9) to distribute or sell piperidine in violation of regulations established under section 310(a)(2), respecting presentation of identification.".

(2) Section 402(c)(2) of such Act (21 U.S.C. 842(c)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) with respect to a refusal or failure to make a report required under section 310(a) (relating to piperidine reporting).".

(3) Section 403(a)(4) of such Act (21 U.S.C. 843(a)(4)) is amended—

(A) by inserting "(A)" after "(4)", and

(B) by inserting before "; or" the following: ", or (B) to present false or fraudulent identification where the person is receiving or purchasing piperidine and the person is required to present identification under section 310(a)".

21 USC 801 note.

(c) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting "; PIPERIDINE REPORTING" at the end of the item relating to part C, and

21 USC 829.

(2) by adding immediately after the item relating to section 309 the following new item:

"Sec. 310. Piperidine reporting.".

21 USC 830 note.

SEC. 203. (a)(1) Except as provided under paragraph (2), the amendments made by this title shall take effect on the date of the enactment of this Act.

(2) Any person required to submit a report under section 310 (a)(1) of the Controlled Substances Act respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act may submit such report any time up to 97 days after such date of enactment.

(3) Until otherwise provided by the Attorney General by regulation, the information required to be reported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) with respect to the person's distribution, sale, or importation of piperidine shall—

(A) be the information described in subparagraphs (A) and (B) of such section, and

(B) except as provided in paragraph (2) of this subsection, be reported not later than seven days after the date of such distribution, sale, or importation.

(b) The Attorney General shall—

(1) first publish proposed interim regulations to carry out the requirements of section 310(a) of the Controlled Substances Act (as added by section 202(a)(2) of this title) not later than 30 days after the date of the enactment of this Act, and

(2) first promulgate final interim regulations to carry out such requirements not later than 75 days after the date of the enactment of this Act, such final interim regulations to be effective with respect to distributions, sales, and importations of piperidine on and after the ninety-first day after the date of the enactment of this Act.

(c) The Attorney General, after consultation with the Secretary of Health, Education, and Welfare, shall analyze and evaluate the impact and effectiveness of the amendments made by this title, including the impact on the illicit manufacture and use of phencyclidine and the impact of the requirements imposed by such amendments on legitimate distributions and uses of piperidine. Not later than March 1, 1980, the Attorney General shall report to the President and the Congress on such analysis and evaluation and shall include in such report such recommendations as the Attorney General deems appropriate.

Report to President and Congress.

(d) On January 1, 1981, section 310, subsection (d) of section 401, paragraph (9) of section 402(a), subparagraph (C) of section 402(c)(2), and clause (B) of section 403(a)(4) of the Controlled Substances Act (as added by this title) are repealed.

Repeals.

***Ante*, p. 3775, 3776.**

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. (a) Section 511 of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 881) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this title, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this title, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(2) in subsection (e)(2) by striking out ", but the proceeds" and all that follows through "court costs"; and

(3) by adding at the end of subsection (e) the following new sentence:

"The proceeds from any sale under paragraph (2) and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such moneys and proceeds remaining after payment of such expenses.".

(b) The second sentence of section 1015 of such Act (21 U.S.C. 965) is amended by inserting "or 511" after "510" each place it appears.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1193 accompanying H.R. 12008 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 95-959 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
July 27, considered and passed Senate.
Sept. 18, considered and passed House, amended, in lieu of H.R. 12008.
Oct. 7, Senate concurred in House amendment with amendments.
Oct. 13, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 10, Presidential statement.

REORGANIZATION PLANS

"The proceeds from any sale under paragraph (2) and any moneys forfeited under this title shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such moneys and proceeds remaining after payment of such expenses."

(b) The second sentence of section 511(b) of such Act (21 U.S.C. 881(b)) is amended by inserting "or (6)" after "(4)" each place it appears.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1193 [illegible] accompanying H.R. 11004 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. [illegible] (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. [illegible], considered and passed Senate.
Sept. [illegible], considered and passed House, amended, in lieu of H.R. 11004.
Oct. [illegible], Senate concurred in House amendment with amendments.
Oct. [illegible], House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. [illegible]:
Nov. 10, Presidential statement.

REORGANIZATION PLAN NO. 1 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 23, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

Equal Employment Opportunity

5 USC app, 42 USC 2000e–4 note.
Effective date for Secs. 1–4, Jan. 1, 1979.*

SECTION 1. *Transfer of Equal Pay Enforcement Functions*

All functions related to enforcing or administering Section 6(d) of the Fair Labor Standards Act, as amended, (29 U.S.C. 206(d)) are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Civil Service Commission pursuant to Sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c) and 17 of the Fair Labor Labor Standards Act, as amended, (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c) and 217) and Section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended, (29 U.S.C. 259).

SECTION 2. *Transfer of Age Discrimination Enforcement Functions*

All functions vested in the Secretary of Labor or in the Civil Service Commission pursuant to Sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a) are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to Sections 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. 625 and 634) are hereby transferred to the Equal Employment Opportunity Commission.

SECTION 3. *Transfer of Equal Opportunity in Federal Employment Enforcement Functions*

(a) All equal opportunity in Federal employment enforcement and related functions vested in the Civil Service Commission pursuant to Section 717 (b) and (c) of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal Employment Opportunity Commission may delegate to the Civil Service Commission or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the Civil Service Commission on other grounds, a Federal employee alleges a violation of Section 717 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–16) provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

SECTION 4. *Transfer of Federal Employment of Handicapped Individuals Enforcement Functions*

All Federal employment of handicapped individuals enforcement functions and related functions vested in the Civil Service Commission pursuant to Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) are hereby transferred to the Equal Employment Opportunity Commission. The function of being co-chairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Civil Service Commission pursuant to Section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

SECTION 5. *Transfer of Public Sector 707 Functions*

Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under Section 707 of Title VII of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–6) and all necessary functions related thereto, including investigation, findings, notice and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said Title VII. The Attorney General is authorized to delegate any function under Section 707 of said Title VII to any officer or employee of the Department of Justice.

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*As provided for by Executive Order 12106 (Vol. 14, Weekly Compilation of Presidential Documents, p. 2290; 3 CFR 1978 Comp., p. 263; 42 USC 2000e–4 note).

SECTION 6. *Transfer of Functions and Abolition of the Equal Employment Opportunity Coordinating Council*

All functions of the Equal Employment Opportunity Coordinating Council, which was established pursuant to Section 715 of the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000e–14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SECTION 7. *Savings Provision*

Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by Section 105 of Title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Plan. Consistent with the provisions of this Plan, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Plan. Consistent with the provisions of this Plan, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Plan in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

SECTION 8. *Incidental Transfers*

So much of the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 9. *Effective Date*

The requirements under 5 USC 906 were met on May 6, 1978.

This Reorganization Plan shall become effective at such time or times, on or before October 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code.

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (1978):

Vol. 14, No. 8: Feb. 23, Presidential message transmitting Reorganization Plan No. 1 of 1978 to Congress.

HOUSE REPORT No. 95–1069 accompanying H. Res. 1049 (Comm. on Government Operations).

SENATE REPORT No. 95–750 accompanying S. Res. 404 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Feb. 24,	H. Res. 1049,	resolution of disapproval, introduced in House and referred to Committee on Government Operations.
	S. Res. 404,	resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Apr. 25,	H. Res. 1049,	rejected by House.

REORGANIZATION PLAN NO. 2 of 1978[1]

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 23, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.[1]

PART I. Office of Personnel Management

5 USC 1101 note; 5 USC app.

SECTION 101. *Establishment of the Office of Personnel Management and its Director and Other Matters.* There is hereby established as an independent establishment in the Executive Branch, the Office of Personnel Management (the "Office"). The head of the Office shall be the Director of the Office of Personnel Management (the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level II of the Executive Schedule. The position referred to in 5 U.S.C. 5109(b) is hereby abolished.

5 USC 5313.

SECTION 102. *Transfer of Functions.* Except as otherwise specified in this Plan, all functions vested by statute in the United States Civil Service Commission, or the Chairman of said Commission, or the Boards of Examiners established by 5 U.S.C. 1105 are hereby transferred to the Director of the Office of Personnel Management.

SECTION 103. *Deputy Director and Associate Directors.*

(a) There shall be within the Office of Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate and who shall be compensated at the rate now or hereafter provided for level III of the Executive Schedule. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the Office of the Director.

5 USC 5314.

(b) There shall be within the Office not more than five Associate Directors, who shall be appointed by the Director in the excepted service, shall have such titles as the Director shall from time to time determine, and shall receive compensation at the rate now or hereafter provided for level IV of the Executive Schedule.

5 USC 5315.

SECTION 104. *Functions of the Director.* The functions of the Director shall include, but not be limited to, the following:

(a) Aiding the President, as the President may request, in preparing such rules as the President prescribes, for the administration of civilian employment now within the jurisdiction of the United States Civil Service Commission;

(b) Advising the President, as the President may request, on any matters pertaining to civilian employment now within the jurisdiction of the United States Civil Service Commission;

(c) Executing, administering and enforcing the Civil Service rules and regulations of the President and the Office and the statutes governing the same, and other activities of the Office including retirement and classification activities except to the extent such functions remain vested in the Merit Systems Protection Board pursuant to Section 202 of this Plan, or are transferred to the Special Counsel pursuant to Section 204 of this Plan. The Director shall provide the public, where appropriate, a reasonable opportunity to comment and submit written views on the implementation and interpretation of such rules and regulations;

(d) Conducting or otherwise providing for studies and research for the purpose of assuring improvements in personnel management, and recommending to the President actions to promote an efficient Civil Service and a systematic application of the merit system principles, including measures relating to the selection, promotion, transfer performance, pay, conditions of service, tenure, and separations of employees; and

(e) Performing the training responsibilities now performed by the United States Civil Service Commission as set forth in 5 U.S.C. Chapter 41.

5 USC 4101 *et seq.*

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[1] As amended July 11, 1978.

SECTION 105. *Authority to Delegate Functions.* The Director may delegate, from time to time, to the head of any agency employing persons in the competitive service, the performance of all or any part of those functions transferred under this Plan to the Director which relate to employees, or applicants for employment, of such agency.

PART II. Merit Systems Protection Board

SECTION 201. *Merit Systems Protection Board.*

(a) The United States Civil Service Commission is hereby redesignated the Merit Systems Protection Board. The Commissioners of the United States Civil Service Commission are hereby redesignated as members of the Merit Systems Protection Board (the "Board").

(b) The Chairman of the Board shall be its chief executive and administrative officer. The position of Executive Director, established by 5 U.S.C. 1103(d), is hereby abolished.

SECTION 202. *Functions of the Merit Systems Protection Board and Related Matters.*

(a) There shall remain with the Board the hearing, adjudication, and appeals functions of the United States Civil Service Commission specified in 5 U.S.C. 1104(b)(4) (except hearings, adjudications and appeals with respect to examination ratings), and also found in the following statutes:

(i) 5 U.S.C. 1504–1507, 7325, 5335, 7521, 7701 and 8347(d);

(ii) 38 U.S.C. 2023.

(b) There shall remain with the Board the functions vested in the United States Civil Service Commission, or its Chairman, pursuant to 5 U.S.C. 1104(a)(5) and (b)(4) to enforce decisions rendered pursuant to the authorities described in Subsection (a) of this Section.

(c) Any member of the Board may request from the Director, in connection with a matter then pending before the Board for adjudication, an advisory opinion concerning interpretation of rules, regulations, or other policy directives promulgated by the Office of Personnel Management.

(d) Whenever the interpretation or application of a rule, regulation, or policy directive of the Office of Personnel Management is at issue in any hearing, adjudication, or appeal before the Board, the Board shall promptly notify the Director, and the Director shall have the right to intervene in such proceedings.

(e) The Board shall designate individuals to chair performance rating boards established pursuant to 5 U.S.C. 4305.

(f) The Chairman of the Board shall designate representatives to chair boards of review established pursuant to 5 U.S.C. 3383(b).

(g) The Board may from time to time conduct special studies relating to the Civil Service, and to other merit systems in the Executive Branch and report to the President and the Congress whether the public interest in a workforce free of personnel practices prohibited by law or regulations is being adequately protected. In carrying out this function the Board shall make such inquiries as may be necessary, and, to the extent permitted by law, shall have access to personnel records or information collected by the Office of Personnel Management and may require additional reports from other agencies as needed. The Board shall make such recommendations to the President and the Congress as it deems appropriate.

(h) The Board may delegate the performance of any of its administrative functions to any officer or employee of the Board.

(i) The Board shall have the authority to prescribe such regulations as may be necessary for the performance of its functions. The Board shall not issue advisory opinions. The Board may issue rules and regulations, consistent with statutory requirements, defining its review procedures, including the time limits within which an appeal must be filed and the rights and responsibilities of the parties to an appeal. All regulations of the Board shall be published in the FEDERAL REGISTER.

SECTION 203. *Savings Provisions.* The Board shall accept appeals from agency actions effected prior to the effective date of this Plan. On the effective date of Part II of this Plan, proceedings then before the Federal Employee Appeals Authority shall continue before the Board; proceedings then before the Appeals Review Board and proceedings then before the United States Civil Service Commission on appeal from decisions of the Appeals Review Board shall continue before the Board; other employee appeals before boards or other bodies pursuant to law or regulation shall continue to be processed pursuant to those laws or regulations. Nothing in this section shall affect the right of a Federal employee to judicial review under applicable law.

SECTION 204. *The Special Counsel.*

(a) There shall be a Special Counsel to the Board appointed for a term of four years by the President by and with the advice and consent of the Senate, who shall be compensated as now or hereafter provided for level IV of the Executive Schedule.

(b) There are hereby transferred to the Special Counsel all functions with respect, to investigations relating to violations of 5 U.S.C. Chapter 15; 5 U.S.C. Subchapter III of Chapter 73 (Political Activities); and 5 U.S.C. 552(a)(4)(F) (public information).

5 USC 1501 *et seq.*
5 USC 7321.

(c) The Special Counsel may investigate, pursuant to 5 U.S.C. 1303, allegations of personnel practices which are prohibited by law or regulation.

(d) When in the judgment of the Special Counsel, such personnel practices exist, he shall report his findings and recommendations to the Chairman of the Merit Systems Protection Board, the agency affected, and to the Office of Personnel Management, and may report such findings to the President.

(e) When in the judgment of the Special Counsel, the results of an investigation would warrant the taking of disciplinary action against an employee who is within the jurisdiction of the Board, the Special Counsel shall prepare charges against such employee and present them with supporting documentation to the Board. Evidence supporting the need for disciplinary action against a Presidential appointee shall be submitted by the Special Counsel to the President.

(f) The Special Counsel may appoint personnel necessary to assist in the performance of his functions.

(g) The Special Counsel shall have the authority to prescribe rules and regulations relating to the receipt and investigation of matters under his jurisdiction. Such regulations shall be published in the FEDERAL REGISTER.

(h) The Special Counsel shall not issue advisory opinions.

PART III. Federal Labor Relations Authority

SECTION 301. *Establishment of the Federal Labor Relations Authority.*

(a) There is hereby established, as an independent establishment in the Executive Branch, the Federal Labor Relations Authority (the "Authority"). The Authority shall be composed of three members, one of whom shall be Chairman, not more than two of whom may be adherents of the same political party, and none of whom may hold another office or position in the Government of the United States except where provided by law or by the President.

(b) Members of the Authority shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member to serve as Chairman of the Authority, who shall be compensated at the rate now or hereafter provided for level III of the Executive Schedule. The other members shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule.

5 USC 5314.
5 USC 5315.

(c) The initial members of the Authority shall be appointed as follows: one member for a term of two years; one member for a term of three years; and the Chairman for a term of four years. Thereafter, each member shall be appointed for a term of four years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) The Authority shall make an annual report on its activities to the President for transmittal to Congress.

SECTION 302. *Establishment of the General Counsel of the Authority.* There shall be a General Counsel of the Authority, who shall be appointed by the President, by and with the advice and consent of the Senate for a term of four years, and who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule. The General Counsel shall perform such duties as the Authority shall from time to time prescribe, including but not limited to the duty of determining and presenting facts required by the Authority in order to decide unfair labor practice complaints.

5 USC 5316.

SECTION 303. *The Federal Service Impasses Panel.* The Federal Service Impasses Panel, established under Executive Order 11491, as amended, (the "Panel") shall continue, and shall be a distinct organizational entity within the Authority.

5 USC 7301 note.

SECTION 304. *Functions.* Subject to the provisions of Section 306, the following functions are hereby transferred:

(a) To the Authority—

(1) The functions of the Federal Labor Relations Council pursuant to Executive Order 11491, as amended;

(2) The functions of the Civil Service Commission under Sections 4(a) and 6(e) of Executive Order 11491, as amended;

(3) The functions of the Assistant Secretary of Labor for Labor-Management Relations, under Executive Order 11491, as amended, except for those functions related to alleged violations of the standards of conduct for labor organizations pursuant to Section 6(a)(4) of said Executive Order; and,

5 USC 7301 note.

(b) to the Panel—the functions and authorities of the Federal Service Impasses Panel, pursuant to Executive Order 11491, as amended.

SECTION 305. *Authority Decisions.* The decisions of the Authority on any matter within its jurisdiction shall be final and not subject to judicial review.

SECTION 306. *Other Provisions.* Unless and until modified, revised, or revoked, all policies, regulations, and procedures established, and decisions issued, under Executive Order 11491, as amended, shall remain in full force and effect. There is hereby expressly reserved to the President the power to modify the functions transferred to the Federal Labor Relations Authority and the Federal Service Impasses Panel pursuant to Section 304 of this Plan.

SECTION 307. *Savings Provision.* All matters which relate to the functions transferred by Section 304 of this Plan, and which are pending on the effective date of the establishment of the Authority before the Federal Labor Relations Council, the Vice Chairman of the Civil Service Commission, or the Assistant Secretary of Labor for Labor-Management Relations shall continue before the Authority under such rules and procedures as the Authority shall prescribe. All such matters pending on the effective date of the establishment of the Authority before the Panel, shall continue before the Panel under such rules and procedures as the Panel shall prescribe.

PART IV. General Provisions

SECTION 401. *Incidental Transfer.* So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 402. *Interim Officers.*

(a) The President may authorize any persons who, immediately prior to the effective date of this Plan, held positions in the Executive Branch of the Government, to act as Director of the Office of Personnel Management, the Deputy Director of the Office of Personnel Management, the Special Counsel, the Chairman and other members of the Federal Labor Relations Authority, the Chairman and other members of the Federal Service Impasses Panel, or the General Counsel of the Authority, until those offices are for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment, as the case may be.

(b) The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other compensation from the United States.

SECTION 403. *Effective Date.* The provisions of this Reorganization Plan shall become effective at such time or times, on or before January 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

The requirements under 5 USC 906 were met on Aug. 12, 1978.

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (1978):

Vol. 14, No. 21: May 23, Presidential message transmitting Reorganization Plan No. 2 of 1978 to Congress. (Also printed as House Document No. 95-341.)

Vol. 14, No. 28: July 11, Presidential message transmitting an amendment to Reorganization Plan No. 2 of 1978 to Congress. (Also printed as House Document No. 95-369.)

HOUSE REPORT No. 95-1396 accompanying H. Res. 1201 (Comm. on Government Operations).

SENATE REPORT No. 95-1049 accompanying S. Res. 464 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

May 23, 24, H. Res. 1200 and H. Res. 1201, resolutions of disapproval, introduced in House and referred to Committee on Government Operations.

S. Res. 462 and S. Res. 464, resolutions of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.

Aug. 9, H. Res. 1201 rejected by House.

Aug. 14, S. Res. 464 indefinitely postponed.

REORGANIZATION PLAN NO. 3 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 19, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

5 USC app; 15 USC 2201 note.

PART I. Federal Emergency Management Agency

SECTION 101. *Establishment of the Federal Emergency Management Agency.*

There is hereby established as an independent establishment in the Executive Branch, the Federal Emergency Management Agency (the "Agency").

SECTION 102. *The Director.*

The Agency shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level II of the Executive Schedule. 5 USC 5313.

SECTION 103. *The Deputy Director.*

There shall be within the Agency a Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule. 5 USC 5315. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the Office of the Director.

SECTION 104. *Associate Directors.*

There shall be within the Agency not more than four Associate Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, two of whom shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule, one of whom shall be compensated at the rate now or hereafter prescribed by law for level V of the Executive Schedule 5 USC 5316. and one of whom shall be compensated at the rate now or hereafter prescribed by law for GS-18 of the General Schedule. 5 USC 5332 note. The Associate Directors shall perform such functions as the Director may from time to time prescribe.

SECTION 105. *Regional Directors.*

There shall be within the Agency ten regional directors who shall be appointed by the Director in the excepted service and shall be compensated at the rate now or hereafter prescribed by law for GS-16 of the General Schedule. 5 USC 5332 note.

SECTION 106. *Performance of Functions.*

The Director may establish bureaus, offices, divisions, and other units within the Agency. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee, or unit of the Agency.

PART II. Transfer of Functions

SECTION 201. *Fire Prevention.*

There are hereby transferred to the Director all functions vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the National Fire Prevention and Control Administration, and the Superintendent of the National Academy for Fire Prevention and Control pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, (15 U.S.C. 2201 through 2219); exclusive of the functions set forth at Sections 18 and 23 of the Federal Fire Prevention and Control Act (15 U.S.C. 278(f) and 1511).

SECTION 202. *Flood and Other Matters.*

There are hereby transferred to the Director all functions vested in the Secretary of Housing and Urban Development pursuant to the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 2414 and 42 U.S.C. 4001 through 4128), and Section 1 of the National Insurance Development Act of 1975, as amended (89 Stat. 68). 12 USC 1749bbb note.

SECTION 203. *Emergency Broadcast System.*

There are hereby transferred to the Director all functions concerning the Emergency Broadcast System, which were transferred to the President and all such functions transferred to the Secretary of Commerce, by Reorganization Plan Number 1. *Ante*, p. 3781.

PART III. General Provisions

SECTION 301. *Transfer and Abolishment of Agencies and Officers.*

The National Fire Prevention and Control Administration and the National Academy for Fire Prevention and Control and the positions of Administrator of said Administration and Superintendent of said Academy are hereby transferred to the Agency. The position of Deputy Administrator of said Administration (established by 15 U.S.C. 2204(c)) is hereby abolished.

SECTION 302. *Incidental Transfers.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 303. *Interim Officers.*

The President may authorize any persons who, immediately prior to the effective date of this Plan, held positions in the Executive Branch to which they were appointed by and with the advice and consent of the Senate, to act as Director, Deputy Director, and Associate Directors of the Agency, until those offices are for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment, as the case may be. The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other compensation from the United States.

SECTION 304. *Effective Date.*

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code. The requirements under 5 USC 906 were met on Sept. 17, 1978.

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (1978):
Vol. 14, No. 25: June 19, Presidential message transmitting Reorganization Plan No. 3 of 1978 to Congress. (Also printed as House Document No. 95–356.)
HOUSE REPORT No. 95–1523 accompanying H. Res. 1242 (Comm. on Government Operations).
SENATE REPORT No. 95–1141 accompanying S. Res. 489(Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
June 19, H. Res. 1242, resolution of disapproval, introduced in House and referred to Committee on Government Operations.
June 22, S. Res. 489, resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Sept. 14, H. Res. 1242 rejected by House.

REORGANIZATION PLAN NO. 4 of 1978[1]

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, August 10, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.[1]

5 USC app; 29 USC 1001 note.

Employee Retirement Income Security Act Transfers

SECTION 101. *Transfer to the Secretary of the Treasury.*

Except as otherwise provided in Sections 104 and 106 of this Plan, all authority of the Secretary of Labor to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of the Treasury:

29 USC 1051, 1081.

(a) regulations, rulings, opinions, variances and waivers under Parts 2 and 3 of Subtitle B of Title I and subsection 1012(c) of Title II of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) (hereinafter referred to as "ERISA"),

26 USC 411 note.

29 USC 1051, 1053, 1059, 1081.

EXCEPT for sections and subsections 201, 203(a)(3)(B), 209, and 301(a) of ERISA;

26 USC 404, 410–413.

(b) such regulations, rulings, and opinions which are granted to the Secretary of Labor under Sections 404, 410, 411, 412, and 413 of the Internal Revenue Code of 1954, as amended, (hereinafter referred to as the "Code"),

EXCEPT for subsection 411(a)(3)(B) of the Code and the definitions of "collectively bargained plan" and "collective bargaining agreement" contained in subsections 404 (a)(1)(B) and (a)(1)(C), 410 (b)(2)(A) and (b)(2)(B), and 413(a)(1) of the Code; and

29 USC 1102.

(c) regulations, rulings, and opinions under subsections 3(19), 3(22), 3(23), 3(24), 3(25), 3(27), 3(28), 3(29), 3(30), and 3(31) of Subtitle A of Title I of ERISA.

SECTION 102. *Transfers to the Secretary of Labor.*

Except as otherwise provided in Section 105 of this Plan, all authority of the Secretary of the Treasury to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of Labor:

26 USC 4975.

(a) regulations, rulings, opinions, and exemptions under section 4975 of the Code,

EXCEPT for (i) subsections 4975 (a), (b), (c)(3), (d)(3), (e)(1), and (e)(7) of the Code; (ii) to the extent necessary for the continued enforcement of subsections 4975 (a) and (b) by the Secretary of the Treasury, subsections 4975(f)(1), (f)(2), (f)(4), (f)(5) and (f)(6) of the Code; and (iii) exemptions with respect to transactions that are exempted by subsection 404(c) of ERISA from the provisions of Part 4 of Subtitle B of Title I of ERISA; and

29 USC 1104.

26 USC 4975 note.

(b) regulations, rulings, and opinions under subsection 2003(c) of ERISA,

EXCEPT for subsection 2003(c)(1)(B).

SECTION 103. *Coordination Concerning Certain Fiduciary Actions.*

26 USC 401.

In the case of fiduciary actions which are subject to Part 4 of Subtitle B of Title I of ERISA, the Secretary of the Treasury shall notify the Secretary of Labor prior to the time of commencing any proceeding to determine whether the action violates the exclusive benefit rule of subsection 401(a) of the Code, but not later than prior to issuing a preliminary notice of intent to disqualify under that rule, and the

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[1] As amended September 20, 1978.

Secretary of the Treasury shall not issue a determination that a plan or trust does not satisfy the requirements of subsection 401(a) by reason of the exclusive benefit rule of subsection 401(a), unless within 90 days after the date on which the Secretary of the Treasury notifies the Secretary of Labor of pending action, the Secretary of Labor certifies that he has no objection to the disqualification or the Secretary of Labor fails to respond to the Secretary of the Treasury. The requirements of this paragraph do not apply in the case of any termination or jeopardy assessment under sections 6851 or 6861 of the Code that has been approved in advance by the Commissioner of Internal Revenue, or, as delegated, the Assistant Commissioner for Employee Plans and Exempt Organizations.

26 USC 6851, 6861.

SECTION 104. *Enforcement by the Secretary of Labor.*

The transfers provided for in Section 101 of this Plan shall not affect the ability of the Secretary of Labor, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, to engage in enforcement under Section 502 of ERISA or to exercise the authority set forth under Title III of ERISA, including the ability to make interpretations necessary to engage in such enforcement or to exercise such authority. However, in bringing such actions and in exercising such authority with respect to Parts 2 and 3 of Subtitle B of Title I of ERISA and any definitions for which the authority of the Secretary of Labor is transferred to the Secretary of the Treasury as provided in Section 101 of this Plan, the Secretary of Labor shall be bound by the regulations, rulings, opinions, variances, and waivers issued by the Secretary of the Treasury.

29 USC 1201.

29 USC 1132.

29 USC 1051, 1081.

SECTION 105. *Enforcement by the Secretary of the Treasury.*

The transfers provided for in Section 102 of this Plan shall not affect the ability of the Secretary of the Treasury, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, (a) to audit plans and employers and to enforce the excise tax provisions of subsections 4975(a) and 4975(b) of the Code, to exercise the authority set forth in subsections 502(b)(1) and 502(h) of ERISA, or to exercise the authority set forth in Title III of ERISA, including the ability to make interpretations necessary to audit, to enforce such taxes, and to exercise such authority; and (b) consistent with the coordination requirements under Section 103 of this Plan, to disqualify, under section 401 of the Code, a plan subject to Part 4 of Subtitle B of Title I of ERISA, including the ability to make the interpretations necessary to make such disqualification. However, in enforcing such excise taxes and, to the extent applicable, in disqualifying such plans the Secretary of the Treasury shall be bound by the regulations, rulings, opinions, and exemptions issued by the Secretary of Labor pursuant to the authority transferred to the Secretary of Labor as provided in Section 102 of this Plan.

26 USC 4975.

SECTION 106. *Coordination for Section 101 Transfers.*

(a) The Secretary of the Treasury shall not exercise the functions transferred pursuant to Section 101 of this Plan to issue in proposed or final form any of the documents described in subsection (b) of this Section in any case in which such documents would significantly impact on or substantially affect collectively bargained plans unless, within 100 calendar days after the Secretary of the Treasury notifies the Secretary of Labor of such proposed action, the Secretary of Labor certifies that he has no objection or he fails to respond to the Secretary of the Treasury. The fact of such a notification, except for such notification for documents described in subsection (b)(iv) of this Section, from the Secretary of the Treasury to the Secretary of Labor shall be announced by the Secretary of Labor to the public within ten days following the date of receipt of the notification by the Secretary of Labor.

(b) The documents to which this Section applies are:

(i) amendments to regulations issued pursuant to subsections 202(a)(3), 203(b)(2) and (3)(A), 204(b)(3) (A), (C), and (E), and 210(a)(2) of ERISA, and

29 USC 1053, 1054, 1060.

26 USC 410, 411, 413, 414.

subsections 410(a)(3) and 411 (a)(5), (6)(A), and (b)(3) (A), (C), and (E), 413 (b)(4) and (c)(3) and 414(f) of the Code;

29 USC 1054, 1082, 1084.
26 USC 411, 412.

(ii) regulations issued pursuant to subsections 204(b)(3)(D), 302(c)(8), and 304 (a) and (b)(2)(A) of ERISA, and subsections 411(b)(3)(D), 412 (c)(8), (e), and (f)(2)(A) of the Code; and

(iii) revenue rulings (within the meaning of 26 CFR Section 601.201(a)(6)), revenue procedures, and similar publications, if the rulings, procedures and publications are issued under one of the statutory provisions listed in (i) and (ii) of this subsection; and

(iv) rulings (within the meaning of 26 CFR Section 601.201(a)(2)) issued prior to the issuance of a published regulation under one of the statutory provisions listed in (i) and (ii) of this subsection and not issued under a published Revenue Ruling.

(c) For those documents described in subsections (b)(i), (b)(ii), and (b)(iii) of this Section, the Secretary of Labor may request the Secretary of the Treasury to initiate the actions described in this Section 106 of this Plan.

SECTION 107. *Evaluation.*

On or before January 31, 1980, the President will submit to both Houses of the Congress an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under ERISA, accompanied by specific legislative recommendations for a long-term administrative structure under ERISA.

SECTION 108. *Incidental Transfers.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 109. *Effective Date.*

The plan became effective Dec. 31, 1978.*

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 30, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (1978):

Vol. 14, No. 32: Aug. 10, Presidential message transmitting Reorganization Plan No. 4 of 1978 to Congress. (Also printed as House Document No. 95-375.)
Vol. 14, No. 38: Sept. 20, Presidential message transmitting an amendment to Reorganization Plan No. 4 of 1978. (Also printed as House Document No. 95-384.)

HOUSE REPORT No. 95-1658 accompanying H. Res 1308 (Comm. on Government Operations).

SENATE REPORT No. 95-1281 accompanying S. Res. 537 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):

Aug. 10, H. Res. 1308, resolution of disapproval, introduced in House and referred to Committee on Government Operations.
Aug. 11, S. Res. 537, resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Oct. 13, H. Res. 1308 rejected by House.
Oct. 13, S. Res. 537 rejected by Senate.

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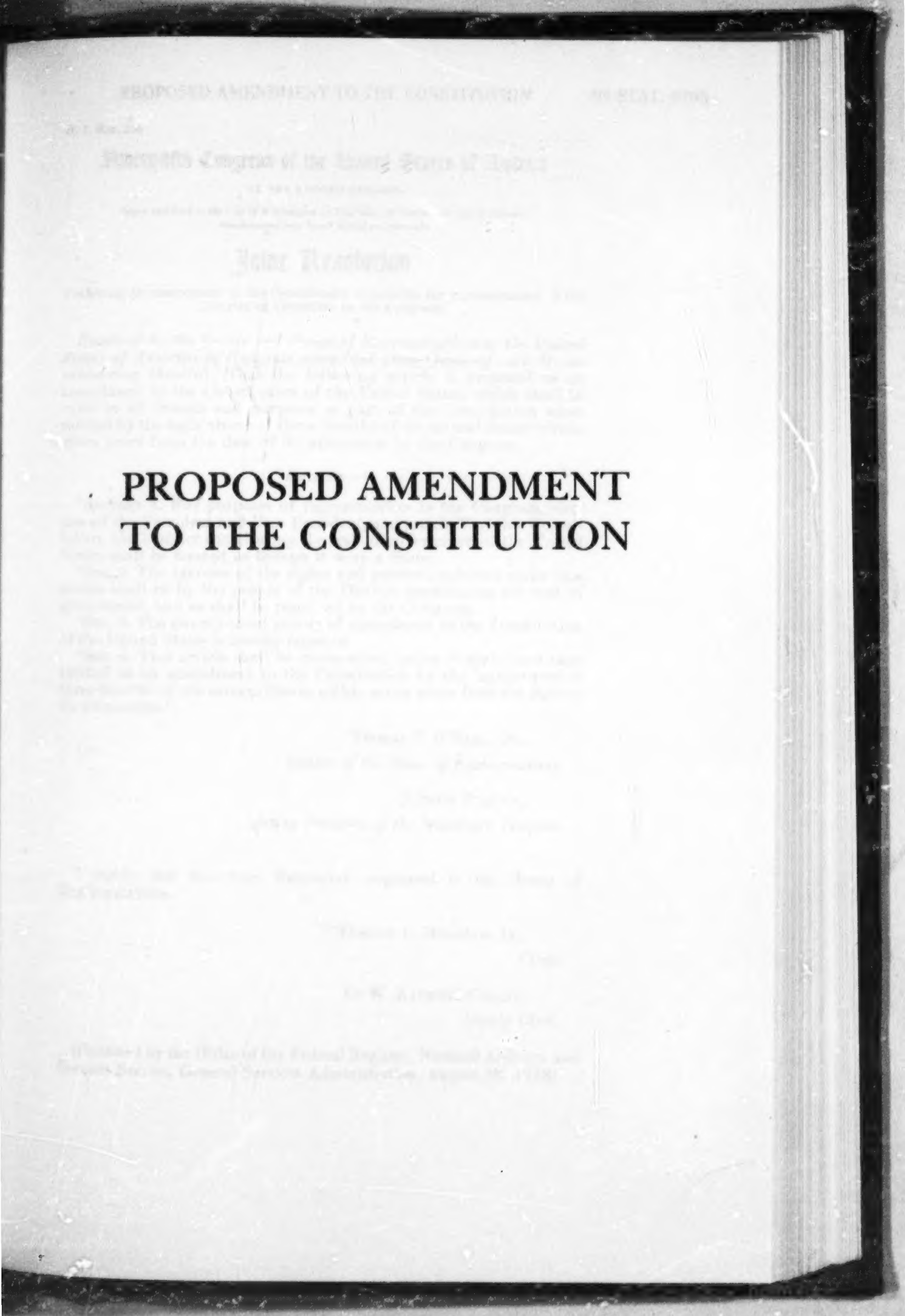
*As provided for by Executive Order 12108 (Vol. 14, Weekly Compilation of Presidential Documents, p. 2300; 3 CFR 1978 Comp., p. 275; 29 USC 1001 note).

EDITORIAL NOTE: The President's statement of Oct. 14, 1978, on congressional action on Reorganization Plan No. 4 of 1978, is printed in the Weekly Compilation of Presidential Documents (vol. 14, p. 1782).



PROPOSED AMENDMENT TO THE CONSTITUTION

H. J. Res. 554

Ninety-fifth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Thursday, the nineteenth day of January,
one thousand nine hundred and seventy-eight

Joint Resolution

Proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (*two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"SEC. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"SEC. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.".

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

QUENTIN BURDICK,
Acting President of the Senate-pro Tempore.

I certify that this Joint Resolution originated in the House of Representatives.

EDMUND L. HENSHAW, JR.,
Clerk.

BY W. RAYMOND COLLEY,
Deputy Clerk.

[Received by the Office of the Federal Register, National Archives and Records Service, General Services Administration, August 28, 1978]

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-886 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
  Mar. 1, 2, considered and passed House.
  Aug. 16, 17, 21, 22, considered and passed Senate.

JOINT RESOLUTION

SECOND SESSION, NINETY-FIFTH CONGRESS

Joint Resolution

Extending the deadline for the ratification of the equal rights amendment. [H.J. Res. 638]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provision of House Joint Resolution 208 of the Ninety-second Congress, second session, to the contrary, the article of amendment proposed to the States in such joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States not later than June 30, 1982.

86 Stat. 1523.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

JAMES O. EASTLAND,
President of the Senate pro Tempore.

JIMMY CARTER,
October 20, 1978.

I certify that this Joint Resolution originated in the House of Representatives.

EDMUND L. HENSHAW, JR.,
Clerk.

[Received by the Office of the Federal Register, National Archives and Records Service, General Services Administration, October 20, 1978.]

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1405 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 15, considered and passed House.
Sept. 28, Oct. 3, 4, 6, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 42:
Oct. 20, Presidential statement.

PRIVATE LAWS

Private Law 95-28
95th Congress

An Act

For the relief of Mrs. Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies.

Feb. 2, 1978
[H.R. 3215]

Olive M.V.T. Davies and children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Olive M. V. T. Davies and her children, Samira D. K. Davies, Ola-Tomi K. Davies, Ola-Yinka K. Davies, Ilesha E. K. Davies, and Baba-Tunji K. Davies, shall be held and considered to be within the purview of section 203(a)(2) of that Act and the provisions of section 204 of the Act shall be inapplicable in their cases.

8 USC 1153.
8 USC 1154.

Approved February 2, 1978.

Private Law 95-29
95th Congress

An Act

For the relief of Ah Young Cho Kwak.

Mar. 27, 1978
[S. 833]

Ah Young Cho Kwak.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ah Young Cho Kwak may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. John Kwak, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.
8 USC 1154.

Approved March 27, 1978.

Private Law 95-30
95th Congress

An Act

For the relief of Young-soon Choi.

Mar. 27, 1978
[S. 1135]

Young-soon Choi.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young-soon Choi may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Douglas L. K. Neeley, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or

8 USC 1101.
8 USC 1154.

brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved March 27, 1978.

Private Law 95-31
95th Congress

An Act

Mar. 27, 1978
[H.R. 1432]

For the relief of Mrs. Desolina Sciulli.

Mrs. Desolina Sciulli.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a) (9) of the Immigration and Nationality Act, Mrs. Desolina Sciulli may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act. 8 USC 1182.

Approved March 27, 1978.

Private Law 95-32
95th Congress

An Act

Mar. 27, 1978
[H.R. 1939]

For the relief of Meda Abilay Florin.

Meda Abilay Florin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Meda Abilay Florin may be classified as a child within the meaning of section 101(b) (1)(E) of the Act, upon approval of a petition filed in her behalf by Aurora A. and Jose R. Florin, permanent resident aliens of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. 8 USC 1101 note. 8 USC 1101.

Approved March 27, 1978.

Private Law 95-33
95th Congress

An Act

For the relief of Su-Hwan Choe.

Mar. 27, 1978
[H.R. 2761]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Su-Hwan Choe shall be held and considered to be the natural-born alien son of Thomas and Catherine Jones, citizens of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Su-Hwan Choe.
8 USC 1153, 1154.

Approved March 27, 1978.

Private Law 95-34
95th Congress

An Act

For the relief of Mrs. Chong Sun Yi Rauch.

Mar. 27, 1978
[H.R. 3081]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, nothwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Mrs. Chong Sun Yi Rauch may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Mrs. Chong Sun Yi Rauch.
8 USC 1182.

Approved March 27, 1978.

Private Law 95-35
95th Congress

An Act

For the relief of Kwi Sok Buckingham (nee Kim).

Mar. 27, 1978
[H.R. 4401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kwi Sok Buckingham (nee Kim) may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclu-

Kwi Sok Buckingham (nee Kim)
8 USC 1182.

sion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved March 27, 1978.

Private Law 95-36
95th Congress

An Act

May 12, 1978
[S. 958]

For the relief of Ernesto F. Garcia, Junior.

Ernesto F. Garcia, Jr.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ernesto F. Garcia, Junior, may be classified as a child within the meaning of section 101(b)(1) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. Ernest Garcia, citizens of the United States, pursuant to section 204 of such Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved May 12, 1978.

Private Law 95-37
95th Congress

An Act

May 15, 1978
[H.R. 1552]

For the relief of Oh Soon Yi.

Oh Soon Yi.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Oh Soon Yi may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by André Prévin, and Maria Farrow Prévin, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved May 15, 1978.

Private Law 95-38
95th Congress

An Act

For the relief of the First Baptist Church of Paducah, Kentucky.

May 16, 1978
[S. 422]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the First Baptist Church of Paducah, Kentucky, the amount of $171,990 in full settlement for all claims against the United States for damages arising in connection with the failure of the Federal Government to carry out its condemnation of the property of Fifth Street and Jefferson Street in Paducah, Kentucky, as proposed on September 9, 1964, by the General Services Administration.

First Baptist Church of Paducah, Ky.

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. A violation of this section is a misdemeanor punishable by a fine in an amount not to exceed $10,000.

Approved May 16, 1978.

Private Law 95-39
95th Congress

An Act

For the relief of Charles P. Abbott.

June 10, 1978
[H.R. 3994]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any debt owed the United States by Charles P. Abbott of Glendora, California, arising from the judgment of the United States District Court for the District of Massachusetts in United States against Abbott (Civil Action No. 60-800-W), entered September 29, 1964, is hereby extinguished.

Charles P. Abbott.

Approved June 10, 1978.

Private Law 95-40
95th Congress

An Act

For the relief of Young Hee Kim Kang and her children, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang.

June 19, 1978
[H.R. 3996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, notwithstanding the

Young Hee Kim Kang and children.
8 USC 1101 note.

death on September 15, 1975, of Jun Kun Kang, who was the beneficiary of an approved petition filed April 22, 1974, in his behalf by his brother, Stanley Shin Kang, a citizen of the United States, Young Hee Kim Kang, the spouse of Jun Kun Kang, and their children, Hee Jae Kang, Hee Jin Kang, and Hee Soo Kang shall, if otherwise eligible, be entitled to fifth preference status under section 203(a)(9) of the Act as of April 22, 1974. 8 USC 1153.

Approved June 19, 1978.

Private Law 95-41
95th Congress

An Act

June 26, 1978
[H.R. 1436]

For the relief of William H. Klusmeier, publisher of the Austin Citizen, of Austin, Texas.

William H. Klusmeier.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William H. Klusmeier, publisher of the Austin Citizen, of Austin, Texas, is relieved of all liability for payment to the United States of the sum of $6,575.23, representing the difference between the amount which should have been paid and the amount actually paid by the said William H. Klusmeier for postage on second-class mailings of the Austin Citizen for the period from March 5, 1973, to August 10, 1974, such underpayment having resulted from his reliance upon postal rates specified in good faith by the appropriate postmaster although such rates were erroneous.

Sec. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said William H. Klusmeier sum of any amounts received from him on account of the underpayment referred to in the first section of this Act. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved June 26, 1978.

Private Law 95-42
95th Congress

An Act

Aug. 3, 1978
[H.R. 1751]

For the relief of Lucy Davao Jara Graham.

Lucy Davao Jara Graham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101-1503), Lucy Davao Jara Graham shall be held and considered to have been lawfully admitted to the United States for permanent residence as

best copy available

of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraph (1) through paragraph (8) of section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(1)–1153(a)(8)).

Approved August 3, 1978.

Private Law 95-43
95th Congress

An Act

For the relief of Michelle Lagrosa Sese.

Aug. 3, 1978
[H.R. 2555]

Michelle Lagrosa Sese.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Michelle Lagrosa Sese may be classified as a child within the meaning of section 101 (b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Rosauro Edrosa and Nieves Lagrosa Sese, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1154.

Approved August 3, 1978.

Private Law 95-44
95th Congress

An Act

For the relief of Mrs. Amelia Doria Nicholson.

Aug. 3, 1978
[H.R. 2945]

Mrs. Amelia Doria Nicholson.
8 USC 1101 note.
8 USC 1151.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Mrs. Amelia Doria Nicholson, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act, and the provisions of section 204 of that Act shall not be applicable in this case.

Approved August 3, 1978.

Private Law 95-45
95th Congress

An Act

Aug. 3, 1978
[H.R. 3995]

For the relief of Habib Haddad.

Habib Haddad.

8 USC 1427.

8 USC 1421.

8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Habib Haddad shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of the Act, he may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Nationality Act.

Approved August 3, 1978.

Private Law 95-46
95th Congress

An Act

Aug. 3, 1978
[H.R. 4607]

For the relief of William Mok.

William Mok.
8 USC 1101 note.
8 USC 1101 note.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, William Mok may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Drs. Ying B. Mok and Lynn C. Mok, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved August 3, 1978.

Private Law 95-47
95th Congress

An Act

Aug. 3, 1978
[H.R. 5928]

For the relief of Miss Coralia Raposo.

Miss Coralia Raposo.
8 USC 1153, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Coralia Maria Pimentel Raposo shall be held and considered to be the natural born alien daughter of Mr. and Mrs. Richard G. Carnright, citizens of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary of this Act shall not, by virtue of their relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. 8 USC 1101 note.

Approved August 3, 1978.

Private Law 95-48
95th Congress

An Act

For the relief of Umberto Ruffolo.

Aug. 4, 1978
[H.R. 1420]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(1) of the Immigration and Nationality Act, Umberto Ruffolo may be issued a visa and admitted to the United States if he is found to be otherwise admissible under the provisions of this Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: *And provided further*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

Umberto Ruffolo.
8 USC 1182.
8 USC 1183.

Approved August 4, 1978.

Private Law 95-49
95th Congress

An Act

For the relief of Chong Cha Williams.

Aug. 28, 1978
[S. 405]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Chong Cha Williams may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Chong Cha Williams.
8 USC 1182.

Approved August 28, 1978.

Private Law 95-50
95th Congress

An Act

For the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin.

Aug. 28, 1978
[S. 1335]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstand-

Shin Myong Yo Purdom.

8 USC 1182.

ing the provisions of section 212(a)(23) of the Immigration and Nationality Act, Shin Myong Yo Purdom, also known as Myong Yo Sin may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved August 28, 1978.

Private Law 95-51
95th Congress

An Act

For the relief of Stephanie Johnson.

Sept. 8, 1978
[H.R. 7162]

Stephanie Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Frankie M. James, of Seattle, Washington, the sum of $1,950 as legal guardian for and on behalf of Stephanie Johnson, in full settlement of all the claims of Stephanie Johnson against the United States arising out of the failure of the Department of the Army to pay a death gratuity awarded to Stephanie Johnson in 1966.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved September 8, 1978.

Private Law 95-52
95th Congress

An Act

For the relief of James Thomas Lantz, Junior, David D. Bulkley, and Arthur J. Abshire.

Sept. 8, 1978
[H.R. 13235]

James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire.
46 USC 249-249c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of Public Law 84-759, or of any other law, the Secretary of Commerce shall issue to each of the following individuals in full recognition of his service as a seaman in the United States Merchant Marine during World War II, the following decorations and indicia of service:

(1) To James Thomas Lantz, Junior, of Columbus, Ohio:
  (A) The Atlantic War Zone Bar.
  (B) The Combat Bar with Star.
  (C) The Defense Bar.

- (D) The Merchant Marine Victory Medal.
- (E) The Honorable Service Button.
- (F) The Merchant Marine Emblem.
- (G) The Presidential Testimonial Letter.

(2) To David D. Bulkley, of West Redding, Connecticut:

- (A) The Atlantic War Zone Bar.
- (B) The Pacific War Zone Bar.
- (C) The Mediterranean-Middle East War Zone Bar.
- (D) The Merchant Marine Victory Medal.
- (E) The Honorable Service Button.
- (F) The Merchant Marine Emblem.
- (G) The Presidential Testimonial Letter.
- (H) The Certificate of Substantially Continuous Service.

(3) To Arthur J. Abshire, of Columbus, Ohio:

- (A) The Merchant Marine Emblem.
- (B) The Atlantic War Zone Bar.
- (C) The Pacific War Zone Bar.
- (D) The Combat Bar.
- (E) The Merchant Marine Victory Medal.
- (F) The Honorable Service Button.
- (G) The Presidential Testimonial Letter.
- (H) The Certificate of Substantially Continuous Service.

Approved September 8, 1978.

Private Law 95-53
95th Congress

An Act

For the relief of Master Sergeant William E. Boone, United States Army, retired.

Sept. 17, 1978
[H.R. 2952]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Master Sergeant William E. Boone, United States Army, retired, of Burlington, North Carolina, the sum of $1,410 in full settlement of his claims against the United States for reimbursement for amounts he was forced to pay for dental work authorized by the Army medical authorities at Womack Army Hospital, Fort Bragg, North Carolina, to be performed at Government expense during his period of active service but which was not completed through no fault on his part until after his retirement.

M. Sgt. William E. Boone, USA (Ret.).

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved September 17, 1978.

Private Law 95-54
95th Congress

An Act

Sept. 30, 1978
[H.R. 1427]

For the relief of Marie Grant.

Marie Grant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of determining entitlement to a survivor annuity under section 8341 of title 5, United States Code, Marie Grant of Chicago, Illinois, is deemed to have met the requirements of subsection (b)(1) of such section.

Effective date.
5 USC 8301 *et seq.*

SEC. 2. For purposes of chapter 83 of title 5, United States Code, any entitlement of Marie Grant to a survivor annuity by reason of the first section of this Act shall be effective as of August 26, 1969, the day after the date of death of her husband, Nathaniel Grant, Junior. The aggregate amount to which Marie Grant is so entitled for the period before the date of the enactment of this Act shall be paid in a lump sum.

Approved September 30, 1978.

Private Law 95-55
95th Congress

An Act

Sept. 30, 1978
[H.R. 3460]

For the relief of William J. Elder and the estate of Stephen M. Owens, deceased.

William J. Elder and the estate of Stephen M. Owens, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the following-named persons is relieved of all liability to repay the United States the amount which appears beside his name:

William J. Elder, $1,143.37.

The estate of Stephen M. Owens, deceased, $231.25.

Such amounts represent overpayments of travel, transportation, and other related expenses made, as a result of an administrative error to the above-named civilian employees of the Department of the Navy during the years 1974 and 1975. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this Act.

Approved September 30, 1978.

Private Law 95-56
95th Congress

An Act

Sept. 30, 1978
[H.R. 5097]

For the relief of Doctor Daryl C. Johnson.

Dr. Daryl C. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States is authorized to settle and adjust the claim of Doctor Daryl C. Johnson, Atlanta, Georgia, for the amount to which he would be entitled under section 5724(a)(2), title 5 of the United States Code and the regulations issued thereunder without regard to section 6.2c of the Office of Management and Budget Circular A-56, revised August 17, 1971, and section 2-8.2c of the Federal Travel Regulations (FPMR 101-7) May 1, 1973, representing expenses which he incurred in 1972 and 1973 for storage of household goods incident to his detail with the Newcastle Task Force of the Animal and Plant Health Inspection Service of the United States Department of Agriculture, San Gabriel, California, for the convenience of the Government.

Sec. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved September 30, 1978.

Private Law 95-57
95th Congress

An Act

For the relief of Charles M. Metott.

Sept. 30, 1978
[H.R. 6760]

Charles M. Metott.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 71a(1) of title 31, United States Code, the Comptroller General is hereby authorized and directed to pay the sum of $1,227.17 to Charles M. Metott, of Williamstown, New York. This sum shall be in full and final settlement of all of his claims against the United States based upon his right to certain death gratuity benefits and back pay and allowances as a result of the death of his brother, Gerald P. Metott, while serving in the United States Marine Corps in Vietnam on November 6, 1965. There is appropriated out any money in the Treasury not otherwise appropriated the sum of $1,227.14 for payment of said claim.

Sec. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved September 30, 1978.

Private Law 95-58
95th Congress

An Act

Oct. 5, 1978
[H.R. 8449]

For the relief of Lourdes Marie Hudson.

Lourdes Marie Hudson.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lourdes Marie Hudson may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by John Allen Hudson, and Genevieve Lynch Hudson citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 5, 1978.

Private Law 95-59
95th Congress

An Act

Oct. 6, 1978
[H.R. 9071]

To confer jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight.

John T. Knight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations, pertaining to suits against the United States, or any lapse of time, or bars of laches, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon any claim of John T. Knight, of New Orleans, Louisiana, arising out of his claim against the United States for disability retirement pay for a disability allegedly incurred or aggravated while serving in the Armed Forces of the United States.

Sec. 2. Suit upon that claim may be instituted at any time within one year after the date of the enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of that claim and review and payment of any judgment or judgments on that claim shall be had in the same manner as in the case of claims over which that court has jurisdiction under section 1491 of title 28 of the United States Code.

Approved October 6, 1978.

Private Law 95-60
95th Congress

An Act

Conferring jurisdiction upon the United States Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, United States Navy (retired).

Oct. 10, 1978
[H.R. 1445]

Comdr. Edward White Rawlins, USN (Ret.).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations pertaining to suits against the United States, or any lapse of time, or bars of laches, jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment upon any claim of Commander Edward White Rawlins, United States Navy (retired), of Washington, District of Columbia, arising out of his claim for retroactive active-duty pay and allowances and retirement pay due him as a result of nonpromotion to the grade of captain, such nonpromotion allegedly being the probable consequence of improper and inequitable actions within the Department of the Navy.

Sec. 2. Suit upon such claim may be instituted at any time within one year after the date of enactment of this Act. Nothing in this Act shall be construed as an inference of liability on the part of the United States. Except as otherwise provided in this Act, proceedings for the determination of such claim and review and payment of any judgment or judgments on such claim shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1491 of title 28 of the United States Code.

Approved October 10, 1978.

Private Law 95-61
95th Congress

An Act

For the relief of Thomas Joseph Hunter and Rose Hunter.

Oct. 18, 1978
[H.R. 10600]

Thomas Joseph and Rose Hunter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2078 of the Revised Statutes (25 U.S.C. 68) shall not be applicable to—

(1) any sale by Thomas Joseph Hunter and Rose Hunter to the Papago Indian tribe, or to any member of that tribe, of the house that was purchased by Thomas Joseph Hunter and Rose Hunter on May 26, 1976, and that is situated on the Crown Jewell unpatented mining claim, located in the Quijota Mining District, as described in and according to the location notice thereof of record at page 236 in docket 318 in the office of the county recorder at Pima County, Arizona; or

(2) any leasing of said Crown Jewell unpatented mining claim by the Papago Indian tribe to Thomas Joseph Hunter and Rose Hunter.

Approved October 18, 1978.

Private Law 95-62
95th Congress

An Act

Oct. 21, 1978
[H.R. 12556]

For relief of Batavia Turf Farms, Incorporated.

Batavia Turf Farms, Inc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Batavia Turf Farms, Incorporated (hereinafter referred to as the farms), doing business in Genesse County, New York, an amount to be determined by the Secretary of Agriculture (hereinafter referred to as the Secretary) to have been lost by the farms during any calendar year commencing with the calendar year 1977, through no fault of its own, as a result of restrictions on the movement of grass sod from the farms under the Federal golden nematode quarantine and supporting regulations in part 301, sections 301.85 and 301.85-1 through 301.85-10 of title 7, Code of Federal Regulations, which deal with measures designed to prevent the spread of the golden nematode. Prior to the payment of any amount of money, the farms shall submit to the Secretary such information as determined by the Secretary to be necessary to determine any losses incurred by the farms. The amounts paid to the farms shall be in full settlement of any and all claims of the farms in a calendar year, resulting from restrictions on the movement of articles under the Federal golden nematode quarantine and regulations during calendar year 1977 and in subsequent calendar years.

SEC. 2. No more than 10 per centum of the amount appropriated in this Act shall be paid to or received by any agency or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $2,000.

Expiration date.

SEC. 3. The provisions of this Act shall expire on December 31, 1982.

Approved October 21, 1978.

Private Law 95-63
95th Congress

An Act

Oct. 27, 1978
[H.R. 1396]

For the relief of Mrs. Sun Pok Winer.

Mrs. Sun Pok Winer.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Mrs. Sun Pok Winer may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-64
95th Congress

An Act

For the relief of Lester Bruce Priday.

Oct. 27, 1978
[H.R. 1446]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Lester Bruce Priday may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Lester Bruce Priday.
8 USC 1182.

Approved October 27, 1978.

Private Law 95-65
95th Congress

An Act

For the relief of Geoffrey Parnham.

Oct. 27, 1978
[H.R. 1449]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Geoffrey Parnham may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Geoffrey Parnham.
8 USC 1182.

Approved October 27, 1978.

Private Law 95-66
95th Congress

An Act

For the relief of Christopher Robert West.

Oct. 27, 1978
[H.R. 2662]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Christopher Robert West may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of

Christopher Robert West.
8 USC 1182.

which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-67
95th Congress

An Act

Oct. 27, 1978
[H.R. 2940]

For the relief of Daniel Crowley.

Daniel Crowley.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of sections 212(a) (1) and (25) of the Immigration and Nationality Act, Daniel Crowley may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That these exemptions shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act: *Provided further*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said Act.

8 USC 1183.

Approved October 27, 1978.

Private Law 95-68
95th Congress

An Act

Oct. 27, 1978
[H.R. 4535]

For the relief of Kazuko Nishioka Dowd.

Kazuko Nishioka Dowd.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kazuko Nishioka Dowd may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-69
95th Congress

An Act

Oct. 27, 1978
[H.R. 5230]

For the relief of Jung In Bang.

Jung In Bang.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jung In Bang may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Dale D. Hurst, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101 note.
8 USC 1101.
8 USC 1154.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 27, 1978.

Private Law 95-70
95th Congress

An Act

For the relief of Jonathan Winston Max.

Oct. 27, 1978
[H.R. 5933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jonathan Winston Max may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Mr. and Mrs. John W. Max, citizens of the United States, pursuant to section 204 of that Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Jonathan Winston Max.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 27, 1978.

Private Law 95-71
95th Congress

An Act

For the relief of Hye Jin Wilder.

Oct. 27, 1978
[H.R. 6801]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Hye Jin Wilder may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Frank Wilder and Dorothy Bosley Wilder, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Hye Jin Wilder.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 27, 1978.

Private Law 95-72
95th Congress

An Act

Oct. 27, 1978
[H.R. 7604]

For the relief of Margaret Somerville Jefferis.

Margaret Somerville Jefferis.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Margaret Somerville Jefferis may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-73
95th Congress

An Act

Oct. 27, 1978
[H.R. 8810]

For the relief of Kim In Hyung.

Kim In Hyung.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kim In Hyung may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by William Tremitiere and Barbara Tremitiere, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 27, 1978.

Private Law 95-74
95th Congress

An Act

Oct. 27, 1978
[H.R. 8927]

For the relief of Monika Grantz.

Monika Grantz.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Monika Grantz may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-75
95th Congress

An Act

For the relief of James William Dibben.

Oct. 27, 1978
[H.R. 9352]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, James William Dibben shall be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of enactment of this Act.

James William Dibben.
8 USC 1182.

Approved October 27, 1978.

Private Law 95-76
95th Congress

An Act

For the relief of Renate Irene McCord.

Oct. 27, 1978
[H.R. 9568]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Renate Irene McCord may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exception shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Renate Irene McCord.
8 USC 1182.

Approved October 27, 1978.

Private Law 95-77
95th Congress

An Act

For the relief of Raymond Vishnu Clemons.

Oct. 27, 1978
[H.R. 9610]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the admin-

Raymond Vishnu Clemons.

8 USC 1101 note. istration of the Immigration and Nationality Act, Raymond Vishnu Clemons may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by David J. and Sally Ann Clemons, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

8 USC 1101.

8 USC 1154.

Approved October 27, 1978.

Private Law 95-78
95th Congress

An Act

Oct. 27, 1978
[H.R. 9611]

For the relief of Craig Day.

Craig Day.

8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Craig Day may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 27, 1978.

Private Law 95-79
95th Congress

An Act

Oct. 27, 1978
[H.R. 9613]

For the relief of Eustace John D'Souza.

Eustace John D'Souza.
8 USC 1101 note.

8 USC 1101.

8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eustace John D'Souza may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Kenneth Cartier, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 27, 1978.

Private Law 95-80
95th Congress

Joint Resolution

Granting the status of permanent residence to certain aliens.

Oct. 27, 1978
[H.J. Res. 489]

Certain aliens.
Permanent residence status.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of each alien hereinafter named, in whose case deportation has been suspended by the Attorney General in accordance with the provisions of section 244(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254(c)), the Attorney General is authorized and directed to cancel deportation proceedings and, in accordance with the provisions of section 244(d) of said Act (8 U.S.C. 1254(d)), to record the alien's lawful admission for permanent residence:

A-1975504, Abrams, Samuel S.
A-5145324, Alcala-Salcedo, Apolinario.
A-4129913, Araujo, Maria Freitas.
A-1473222, Asencio-Placencio, Pedro.
A-6815221, Bader, Louis William.
A-1472909, Baglieri, George.
A-4324674, Barrera-Cabrera, Jesus.
A-13388850, Berger, Harry.
A-3212791, Candanoza-Leza, Rogelio.
A-6499744, Cartier, Paul August.
A-9687873, Chan, Chuen.
A-18495868, Chan, Yuen Hing.
A-14585059, Chin, Goon You.
A-2894457, Chin, Huey.
A-17140325, Chin, Kay Ming.
A-17949342, Chin, Lean.
A-8812001, Ching, Tsing.
A-13756892, Chu, Nee Chong.
A-9799248, Chung, So.
A-8427555, Cooremans-Cruz, Eugenio Juan.
A-7138470, Cuervo, Ester.
A-2569196, DeBravo, Cenovia Mesa.
A-5271262, DeLuna-Segovia, Jose.
A-12613969, Don, Hing Lew.
A-8106820, Eha, Elmar.
A-14325565, Eng, Kung Doo.
A-5069505, Fat, Tong Li.
A-14677835, Fong, Mun Quong.
A-13069928, Fong, Shue Kee.
A-6816735, Funk, Thomas Fredrik.
A-4164588, Gonzalez-Magana, Luis.
A-10712348, Gonzalez-Urena, Ramon.
A-1864768, Herrera-Marquez, Aurelio.
A-14218274, Hom, Wai Kwong.
A-13692164, Hong, Yeu Koon.
A-11397847, Huey, Hung Quon.
A-4316706, Ioanides, Gabriel Constantinos.
A-4858345, Kalogres, Atanasios.
A-2843283, Klingbeil, Bernard Michael.
A-7216780, Kowal, John (Jan).
A-12372117, Kowk, Kee Dong.

A-9836945, Lai, Sung Wong.
A-14006061, Lee, Dom Min.
A-5227719, Lee, High Suey.
A-14231050, Lee, Paul H.
A-12027264, Liu, Lai Chih.
A-13705340, Loo, Lung Sang.
A-3601059, Lopez, Francisco Rodriguez.
A-1999784, Louie, Fung Leung.
A-5121888, Lum, Mee.
A-13550905, Lum, Ting Kam.
A-18496866, Lum, Wah Gum.
A-14605579, Ma, Yiu Kay.
A-1880149, Marcus, Harry Aaron.
A-10475692, Martinez-Figueroa, Samuel.
A-5987386, Martinez-Venegas, Pedro.
A-13282197, Moy, Huey Nai.
A-3937093, Nicholas, Gus.
A-5433208, Papuzynski, Walter John.
A-8487289, Pascual, Vicente.
A-2737095, Pinon-Granados, Remedios.
A-11598081, Pung, Wone.
A-3253579, Riccioli, Paoli or Paul.
A-17878251, Rodriguez, Jose Roman.
A-3135441, Rojas-Gutierrez, Eleodoro.
A-3173420, Rojo-Estrada, Ramon.
A-3254358, Romero, Fortunato.
A-14219771, Russo, Maria Isaura.
A-13518212, Smeriga, John.
A-8333086, Sotelo-Garcia, Ignacio.
A-3854398, Spiegel, Max.
A-1050706, Tahir, Ahmed.
A-2628682, Tercero-Flores, Manuel.
A-8486988, Terrazas-Barrio, Efren.
A-5633712, Valencia-Sanchez, Enrique.
A-17185939, Wong, Harry.
A-4679692, Wong, Quong.
A-11414479, Woo, Moon Fee.
A-3626010,Woo, Poy Tom.
A-9765182, Yim, Chee.
A-9702536, Ying, Ah Sing.
A-6079487, Yip, Har.
A-14196929, Yuen, Chung Ng.
A-11673403, Bakierowska, Kazimiera.
A-4993823, Bally, George Ally.
A-15059539, Borstelj, Giovanni.
A-6303002, Campos-Murillo, Leopold.
A-13511092, Chan, Yang Yoke.
A-6060332, Chang, Ah Kwang.
A-4715670, Gagliano, Giuseppe.
A-11977348, Gee, Tip Thlew.
A-3549268, Greklek, William.
A-4912022, Jones, Mary N.
A-11404825, Lai, Huey Koon.
A-5853388, Pankowski, Bernard.
A-15704486, Plata-Montalvo, Carlos Marques de la.
A-2672062, Turansky, Yankel Benjamin.

A-12653501, Yee, Wing.
A-10917887, Zolkos, Antoni.

Approved October 27, 1978.

Private Law 95-81
95th Congress

An Act

For the relief of Michael Bruce Holland.

Oct. 27, 1978
[S. 1484]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Michael Bruce Holland may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Michael Bruce Holland.
8 USC 1182.

Approved October 27, 1978.

Private Law 95-82
95th Congress

An Act

For the relief of Maria Miraflor Carabbacan.

Oct. 28, 1978
[H.R. 1392]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Miraflor Carabbacan may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Francisco Carabbacan, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Maria Miraflor Carabbacan.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-83
95th Congress

An Act

For the relief of Stefan Kowalik.

Oct. 28, 1978
[H.R. 1400]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the admin-

Stefan Kowalik.

8 USC 1101 note. istration of the Immigration and Nationality Act, Stefan Kowalik may be classified as a child within the meaning of section 101(b) 8 USC 1101. (1)(F) of the Act, upon approval of a petition filed in his behalf by Barbara and Leon Andrzejczyk, citizens of the United States, pur- 8 USC 1154. suant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-84
95th Congress

An Act

Oct. 28, 1978
[H.R. 1402]

For the relief of Rosario A. Calvin.

Rosario A. Calvin.
8 USC 1153, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Rosario A. Calvin shall be held and considered to be the natural-born alien daughter of Carol Lee Calvin, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any 8 USC 1101 note. right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-85
95th Congress

An Act

Oct. 28, 1978
[H.R. 1406]

For the relief of Lilia Araujo.

Lilia Araujo.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lilia Araujo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Rafael Araujo, citizens of the United States, pursuant to section 204 of the Act. The natural parents or brothers or sisters of Lilia Araujo shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-86
95th Congress

An Act

For the relief of Anthony Rogers.

Oct. 28, 1978
[H.R. 1750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Anthony Rogers shall be held and considered to be the natural-born alien son of Mr. Charles Rogers, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Anthony Rogers.
8 USC 1153, 1154.
8 USC 1101 note.

Approved October 28, 1978.

Private Law 95-87
95th Congress

An Act

For the relief of Gilberto Taneo Gilberstadt.

Oct. 28, 1978
[H.R. 1779]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Gilberto Taneo Gilberstadt may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Samuel Gilberstadt, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Gilberto Taneo Gilberstadt.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-88
95th Congress

An Act

For the relief of Juana Todd Atherley.

Oct. 28, 1978
[H.R. 1931]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juana Todd Atherley may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Cecilia and Guillermo Todd, a citizen and lawful permanent resident of the United States, respectively, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters

Juana Todd Atherley.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-89
95th Congress

An Act

Oct. 28, 1978
[H.R. 1936]

For the relief of Lee So Ryung.

Lee So Ryung.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lee So Ryung may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and a petition filed in his behalf by Mr. and Mrs. Douglas Dix, citizens of the United States, may be approved pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-90
95th Congress

An Act

Oct. 28, 1978
[H.R. 1938]

For the relief of Santos Marquez Arellano.

Santos Marquez Arellano.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Santos Marquez Arellano, may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Archie A. Swindle, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-91
95th Congress

An Act

For the relief of Ruben P. Din.

Oct. 28, 1978
[H.R. 2253]

Ruben P. Din.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ruben P. Din may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval by a petition filed in his behalf by Staff Sergeant and Mrs. Neal R. Olmstead, a citizen of the United States and an alien, respectively, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.

8 USC 1154.

Approved October 28, 1978.

Private Law 95-92
95th Congress

An Act

For the relief of Natividad Casing and Myrna Casing.

Oct. 28, 1978
[H.R. 2369]

Natividad and Myrna Casing.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Natividad Casing and Myrna Casing may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Winston A. and Pacita Ashford, citizens of the United States, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.

8 USC 1154.

Approved October 28, 1978.

Private Law 95-93
95th Congress

An Act

For the relief of Young Gun Kim.

Oct. 28, 1978
[H.R. 2553]

Young Gun Kim.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young Gun Kim may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Roger D. Taylor, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers

8 USC 1101.

8 USC 1154.

or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-94
95th Congress

An Act

Oct. 28, 1978
[H.R. 2756]

For the relief of Marlene Holder.

Marlene Holder.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Marlene Elizabeth Holder may be classified as a child within the meaning of section 101 (b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Wesley McD. Holder, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-95
95th Congress

An Act

Oct. 28, 1978
[H.R. 2758]

For the relief of Carmen Prudence Hernandez.

Carmen Prudence Hernandez.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Carmen Prudence Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Carmen Hernandez, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-96
95th Congress

An Act

For the relief of Sealie Von Kleist Hernandez.

Oct. 28, 1978
[H.R. 2759]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sealie Von Kleist Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Carmen Hernandez, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Sealie Von Kleist Hernandez.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-97
95th Congress

An Act

For the relief of Derrick Mariano Tan.

Oct. 28, 1978
[H.R. 2939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Derrick Mariano Tan may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Constante and Pearl Tan, a lawfully resident alien and a citizen of the United States, respectively, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Derrick Mariano Tan.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-98
95th Congress

An Act

For the relief of Ricky Lee Trautvetter.

Oct. 28, 1978
[H.R. 2944]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ricky Lee Trautvetter shall be held and considered to be the natural-born alien son of Emil W. and Thelma K. Trautvetter, citizens

Ricky Lee Trautvetter.
8 USC 1153, 1154.

of the United States: *Provided*, That the natural parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-99
95th Congress

An Act

Oct. 28, 1978
[H.R. 3217]

For the relief of Meeja Sa Foster.

Meeja Sa Foster.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in the administration of the Immigration and Nationality Act, Meeja Sa Foster may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Lieutenant Colonel William R. and Brenda Foster, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.**

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-100
95th Congress

An Act

Oct. 28, 1978
[H.R. 3618]

For the relief of Martha Castro Fitz Maurice.

Martha Castro Fitz Maurice.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

***Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in the administration of the Immigration and Nationality Act, Martha Castro Fitz Maurice may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. W. A. Fitz Maurice, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.**

Approved October 28, 1978.

Private Law 95-101
95th Congress

An Act

For the relief of Peter Neal Smith.

Oct. 28, 1978
[H.R. 3625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Peter Neal Smith may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Scott L. Smith, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Peter Neal Smith.
8 USC 1101 note.

8 USC 1101.

8 USC 1154.

Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-102
95th Congress

An Act

For the relief of Pece D. Van Arsdol.

Oct. 28, 1978
[H.R. 3835]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Pece D. Van Arsdol shall be held and considered to be the natural-born alien son of Mr. and Mrs. Maurice D. Van Arsdol, citizens of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Pece D. Van Arsdol.

8 USC 1153, 1154.

Approved October 28, 1978.

Private Law 95-103
95th Congress

An Act

For the relief of Elizabeth D. Yee Kraus.

Oct. 28, 1978
[H.R. 4875]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Elizabeth D. Yee Kraus shall be held and considered to be the

Elizabeth D. Yee Kraus.

8 USC 1153, 1154.

natural-born alien daughter of Robert Mark Kraus, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-104
95th Congress

An Act

Oct. 28, 1978
[H.R. 5163]

For the relief of Marinelle Khristy Cruz.

Marinelle Khristy Cruz.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Marinelle Khristy Cruz may be classified as a child within the meaning of section 101 (b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Nellie Lenora Cruz, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sister of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-105
95th Congress

An Act

Oct. 28, 1978
[H.R. 6934]

For the relief of Donna Marainne Benney.

Donna Marainne Benney.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Donna Marainne Benney may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Charles E. Benney, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-106
95th Congress

An Act

For the relief of Noel Abueg Emde.

Oct. 28, 1978
[H.R. 7387]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Noel Abueg Emde may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Arthur Emde, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Noel Abueg Emde.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-107
95th Congress

An Act

For the relief of Vasilios Georgios Valcanos.

Oct. 28, 1978
[H.R. 7419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Vasilios Georgios Valcanos may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by George Louis Valcanos, a citizen of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Vasilios Georgios Valcanos.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-108
95th Congress

An Act

For the relief of Jae Keun Christianson.

Oct. 28, 1978
[H.R. 8308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jae Keun Christianson may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Robert C. Christianson, Junior, a citizen and lawful

Jae Keun Christianson.
8 USC 1101 note.
8 USC 1101.

8 USC 1154.

resident alien, respectively, of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-109
95th Congress

An Act

Oct. 28, 1978
[H.R. 10407]

For the relief of Ling-Yung Kung.

Ling-Yung Kung.

8 USC 1101.

8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ling-Yung Kung may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Byron Jerome and EaLing Lee Dudding, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-110
95th Congress

An Act

Oct. 28, 1978
[S. 337]

For the relief of Miriama Jones.

Miriama Jones.
8 USC 1101 note.

8 USC 1101.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Miriama Jones may be classified as an orphan within the definition of section 101(b)(1)(F) of such Act and a petition filed in her behalf by Mr. and Mrs. David Lyman, citizens of the United States, pursuant to section 204 of such Act, shall be approved upon compliance with the remaining requirements of said section 101(b)(1)(F). The natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-111
95th Congress

An Act

For the relief of Imelda C. Jayag Potter.

Oct. 28, 1978
[S. 579]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Imelda C. Jayag Potter may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. William Potter, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Imelda C. Jayag Potter.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-112
95th Congress

An Act

For the relief of Timmy Lao Olavere.

Oct. 28, 1978
[S. 612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Timmy Lao Olavere may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Samuel M. Olavere, a citizen of the United States, and his wife, Elsa Olavere, a lawfully admitted resident alien, pursuant to section 204 of such Act. The natural parents and brothers and sisters, if any, of Timmy Lao Olavere shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Timmy Lao Olavere.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-113
95th Congress

An Act

For the relief of Young-Shik Kim.

Oct. 28, 1978
[S. 973]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young-Shik Kim shall be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in his behalf

Young-Shik Kim.
8 USC 1101 note.
8 USC 1101.

8 USC 1154.

by Tae Hyung Kim and his wife, Kyung Sook Kim, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-114
95th Congress

An Act

Oct. 28, 1978
[S. 1110]

For the relief of Juanita Binabise.

Juanita Binabise.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juanita Binabise may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Mateo Laem Binabise, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of the said Juanita Binabise shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-115
95th Congress

An Act

Oct. 28, 1978
[S. 1154]

For the relief of Jin Syen Suh.

Jin Syen Suh.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Jin Syen Suh may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Major and Mrs. Jerry M. Free, citizens of the United States, pursuant to section 204 of the Act. The parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-116
95th Congress

An Act

For the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung).

Oct. 28, 1978
[S. 1165]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chester Chun Ket Young (also known as Chun-Kit Yeung), may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on his behalf by Mr. and Mrs. Kwan Loy Young, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother or sister, or prior adoptive parent, of Chester Chun Ket Young (also known as Chun-Kit Yeung), shall, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

Chester Chun Ket Young.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-117
95th Congress

An Act

For the relief of Maria Elena Jumalon.

Oct. 28, 1978
[S. 1166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Maria Elena Jumalon may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in her behalf by Generoso Erejil Jumalon, a citizen of the United States, and his wife, Demetria Jumalon, a lawful permanent resident, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Maria Elena Jumalon shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Maria Elena Jumalon.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-118
95th Congress

An Act

For the relief of Do Sook Park.

Oct. 28, 1978
[S. 1563]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Do Sook Park may be classified as a child within the meaning of section 101(b)(1)(F) of

Do Sook Park.
8 USC 1101 note.

8 USC 1101.
8 USC 1154.

such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Frank Donnelly, citizens of the United States, pursuant to section 204 of such Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-119
95th Congress

An Act

Oct. 28, 1978
[S. 1618]

For the relief of Sang Yun Yoon.

Sang Yun Yoon.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sang Yun Yoon may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. William Voelker, citizens of the United States, pursuant to section 204 of this Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Approved October 28, 1978.

Private Law 95-120
95th Congress

An Act

Oct. 28, 1978
[S. 2248]

For the relief of Susanna Shu-hui Jean.

Susanna Shu-hui Jean.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Susanna Shu-hui Jean may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Jong Ho Jean and Fu-mei Freda Jean, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such a relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-121
95th Congress

An Act

For the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley.

Oct. 28, 1978
[S. 2294]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Joselyn Buccat Lalley and Jodelyn Buccat Lalley may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Mr. and Mrs. John Anthony Lalley, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Joselyn Buccat and Jodelyn Buccat Lalley.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-122
95th Congress

An Act

For the relief of Caroline Valdez Sulfelix.

Oct. 28, 1978
[S. 2446]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Caroline Valdez Sulfelix shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Simon Sulfelix, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Caroline Valdez Sulfelix.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-123
95th Congress

An Act

For the relief of Mary Jo Natividad and Regina Natividad.

Oct. 28, 1978
[S. 3042]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mary Jo Natividad

Mary Jo and Regina Natividad.

8 USC 1101 note.
8 USC 1101.
8 USC 1154.

and Regina Natividad may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by John M. Phelan and Jane J. B. Phelan, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 28, 1978.

Private Law 95-124
95th Congress

An Act

Oct. 28, 1978
[S. 3051]

For the relief of Tsutomu Tanaka.

Tsutomu Tanaka.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Tsutomu Tanaka shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. Timothy M. Killian, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Tsutomu Tanaka shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.
8 USC 1154.

Approved October 28, 1978.

Private Law 95-125
95th Congress

An Act

Oct. 28, 1978
[S. 3109]

For the relief of Ricardo Rosas Salazar.

Ricardo Rosas Salazar.
8 USC 1153, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ricardo Rosas Salazar shall be held and considered to be the natural-born alien son of Mr. and Mrs. Charles Edwin Olsen, citizens of the United States. The natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101 note.

Approved October 28, 1978.

Private Law 95-126
95th Congress

An Act

Oct. 30, 1978
[H.R. 1405]

For the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers).

Jennet Juanita Miller.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jennet Juanita Miller (also known as Jennet Juanita Flowers) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

8 USC 1153.

Approved October 30, 1978.

Private Law 95-127
95th Congress

An Act

Oct. 30, 1978
[H.R. 1428]

For the relief of Mrs. Angelita Short.

Mrs. Angelita Short.
8 USC 1101 note.
8 USC 1151.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mrs. Angelita Short, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of that Act shall not be applicable in this case.

Approved October 30, 1978.

Private Law 95-128
95th Congress

An Act

Oct. 30, 1978
[H.R. 1450]

For the relief of Hildegard G. Blakeley.

Hildegard G. Blakeley.
8 USC 1101 note.
8 USC 1151.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Hildegard G. Blakeley, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such

8 USC 1154.

Act, and the provisions of section 204 of that Act shall not be applicable in this case.

Approved October 30, 1978.

Private Law 95-129
95th Congress

An Act

Oct. 30, 1978
[H.R. 1777]

For the relief of Cathy Gee Yuen.

Cathy Gee Yuen.
8 USC 1101 note.
8 USC 1151.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Cathy Gee Yuen, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

Approved October 30, 1978.

Private Law 95-130
95th Congress

An Act

Oct. 30, 1978
[H.R.1798]

For the relief of Kwong Lam Yuen.

Kwong Lam Yuen.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kwong Lam Yuen may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 30, 1978.

Private Law 95-131
95th Congress

An Act

Oct. 30, 1978
[H.R. 2256]

For the relief of Edmundo Alfredo Oreiro Espinueva.

Edmundo Alfredo Oreiro Espinueva.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Edmundo Alfredo

Oreiro Espinueva shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

8 USC 1101 note.

8 USC 1153.
8 USC 1152.

Approved October 30, 1978.

Private Law 95-132
95th Congress

An Act

For the relief of Boulos Stephan.

Oct. 30, 1978
[H.R. 2292]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Boulos Stephan may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of the Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Boulos Stephan.
8 USC 1182.

Approved October 30, 1978.

Private Law 95-133
95th Congress

An Act

For the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam.

Oct. 30, 1978
[H.R. 2558]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor John Alexis L. S. Tam and Yeut Shum Tam shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of each alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Dr. John Alexis
L. S. Tam and
Yeut Shum Tam.
8 USC 1101 note.

8 USC 1153.

Approved October 30, 1978.

Private Law 95-134
95th Congress

An Act

Oct. 30, 1978
[H.R. 2658]

For the relief of Nora L. Kennedy.

Nora L. Kennedy.
8 USC 1101 note.

8 USC 1151.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Nora L. Kennedy, the widow of a citizen of the United States, shall be deemed to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of that Act shall not be applicable in this case.

Approved October 30, 1978.

Private Law 95-135
95th Congress

An Act

Oct. 30, 1978
[H.R. 3090]

For the relief of Fidel Grosso-Padilla.

Fidel Grosso-Padilla.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Fidel Grosso-Padilla may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 30, 1978.

Private Law 95-136
95th Congress

An Act

Oct. 30, 1978
[H.R. 4404]

For the relief of Susan Spurrier.

Susan Spurrier.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Susan Spurrier shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

8 USC 1153.
8 USC 1152.

Approved October 30, 1978.

Private Law 95-137
95th Congress

An Act

For the relief of Elisabetta Basso Gallizio.

Oct. 30, 1978
[H.R. 4530]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Naturalization Act the provisions of section 312(1) of that Act shall be inapplicable in the case of Elisabetta Basso Gallizio.

Elisabetta Basso Gallizio.
8 USC 1101 note.
8 USC 1423.

Approved October 30, 1978.

Private Law 95-138
95th Congress

An Act

For the relief of Lily Lirio Galindo.

Oct. 30, 1978
[H.R. 6664]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lily Lirio Galindo, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

Lily Lirio Galindo.
8 USC 1101 note.
8 USC 1151.
8 USC 1154.

Approved October 30, 1978.

Private Law 95-139
95th Congress

An Act

For the relief of Johanne Lapointe.

Oct. 30, 1978
[H.R. 7550]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Johanne Lapointe shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment

Johanne Lapointe.
8 USC 1101 note.

8 USC 1153.

of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Approved October 30, 1978.

Private Law 95-140
95th Congress

An Act

Oct. 30, 1978
[S. 142]

For the relief of Gaspar Louis Sayoc.

Gaspar Louis Sayoc.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Gaspar Louis Sayoc may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Approved October 30, 1978.

Private Law 95-141
95th Congress

An Act

Oct. 30, 1978
[S. 1006]

For the relief of Concrete Industries (Monier), Limited.

Concrete Industries (Monier), Limited.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the opinion, findings of fact, and conclusions of the review panel of the commissioners of the United States Court of Claims in Congressional Reference Case No. 6-70, Concrete Industries (Monier), Limited against the United States, filed December 13, 1974, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Concrete Industries (Monier), Limited, the sum of $1,022,714, representing the amount to which Concrete Industries (Monier), Limited, is equitably entitled as compensation for costs incurred in performing United States Navy Contract numbered NBy 48950 awarded July 19, 1963.

SEC. 2. No part of the amount appropriated in this Act in excess of 15 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Approved October 30, 1978.

Private Law 95-142
95th Congress

An Act

For the relief of Jesusa Navarro Romero and Antonio Angeles Romero.

Oct. 30, 1978
[S. 2379]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jesusa Navarro Romero and Antonio Angeles Romero shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Jesusa Navarro and Antonio Angeles Romero.
8 USC 1101 note.

8 USC 1153.

Approved October 30, 1978.

Private Law 95-143
95th Congress

An Act

For the relief of Rodolfo N. Arriola.

Oct. 30, 1978
[S. 2509]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rodolfo N. Arriola shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Rodolfo N. Arriola.
8 USC 1101 note.

8 USC 1153.

Approved October 30, 1978.

Private Law 95-144
95th Congress

An Act

Oct. 30, 1978
[S. 2671]

For the relief of Masami Yamada.

Masami Yamada.
8 USC 1101 note.
8 USC 1101.
8 USC 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Masami Yamada shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Raymond Itsuo Yamada, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 30, 1978.

Private Law 95-145
95th Congress

An Act

Oct. 30, 1978
[S. 2687]

For the relief of Doctor Allan Joseph Cawley.

Dr. Allan Joseph Cawley.
8 USC 1101.
8 USC 1427.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 101(a)(27)(A) of the Immigration and Nationality Act, Doctor Allan Joseph Cawley shall be held and considered to have been a returning resident alien at the time of his last admission to the United States, and for the purposes of section 316 of that Act shall be held and considered to have complied with the requirements of that section as they relate to residence and physical presence in the United States.

Approved October 30, 1978.

Private Law 95-146
95th Congress

An Act

Oct. 31, 1978
[H.R. 1753]

For the relief of Marina Houghton.

Marina Houghton.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Marina Houghton may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Reverend and Mrs. William C. Houghton, a citizen of the United States and a lawfully resident alien, respectively, pursuant to section 204 of the

Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 31, 1978

Private Law 95-147
95th Congress

An Act

For the relief of Rogelio M. Encomienda.

Oct. 31, 1978
[H.R. 2259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rogelio M. Encomienda may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by his adoptive parents, Mr. and Mrs. Renato P. Encomienda, citizens of the United States, pursuant to section 204 of such Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary of this Act shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Rogelio M. Encomienda.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 31, 1978.

Private Law 95-148
95th Congress

An Act

For the relief of Irma Victoria Bolarte Alvarado.

Oct. 31, 1978
[H.R. 3613]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Irma Victoria Bolarte Alvarado may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Leo and Celia Bolarte, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Irma Victoria Bolarte Alvarado.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 31, 1978.

Private Law 95-149
95th Congress

An Act

Oct. 31, 1978
[H.R. 7653]

For the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy.

Jackson Ormiston Edwards and Merle Cleopatra Edwards Cuffy.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in their behalf by Arthur and Jennie Cuffy, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 31, 1978.

Private Law 95-150
95th Congress

An Act

Oct. 31, 1978
[H.R. 9075]

For the relief of John F. Johnson.

John F. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John F. Johnson, a postmaster at the United States Post Office in Beech Grove, Indiana, is relieved of liability to the United States in the amount of $767.98, representing losses resulting from the mailing at an improper rate during the period January 10, 1966, through June 30, 1968, of the Perry Township Weekly, a publication of Perry Publications, Incorporated, a corporation incorporated in the State of Indiana. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to John F. Johnson an amount equal to the aggregate of any amounts paid by him to, or withheld from sums otherwise due him by, the United States with respect to his indebtedness to the United States referred to in the first section of this Act.

(b) Not more than 10 per centum of the amount appropriated in subsection (a) of this section may be transferred, directly or indirectly, to any attorney or other agent as consideration for service rendered to John F. Johnson in connection with this claim. Any person violating the provisions of this subsection shall be fined not more than $1,000.

Approved October 31, 1978.

Private Law 95-151
95th Congress

An Act

For the relief of Elvi Engelsmann Jensen.

Oct. 31, 1978
[S. 1401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Elvi Engelsmann Jensen may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Donald Jensen, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Elvi Engelsmann Jensen shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Elvi Engelsmann Jensen.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 31, 1978.

Private Law 95-152
95th Congress

An Act

For the relief of Yom Chong Ok.

Oct. 31, 1978
[S. 3066]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Yom Chong Ok may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Heinritz, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Yom Chong Ok.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Approved October 31, 1978.

Private Law 95-153
95th Congress

An Act

For the relief of Debbie Agatta Hepburn.

Oct. 31, 1978
[S. 3106]

Debbie Agatta Hepburn.
8 USC 1101 note.
8 USC 1101.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Debbie Agatta Hepburn shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by the Reverend and Mrs. Israel W. Hepburn, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 31, 1978.

Private Law 95-154
95th Congress

An Act

Oct. 31, 1978
[S. 391]

For the relief of Brigitte Marie Harwood.

Brigitte Marie Harwood.
8 USC 1182.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (9) and (23) of section 212(a) of the Immigration and Nationality Act, Brigitte Marie Harwood may be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of such Act. This Act applies solely to the grounds for exclusion under such paragraphs known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

Approved October 31, 1978.

Private Law 95-155
95th Congress

An Act

Oct. 31, 1978
[S. 1826]

For the relief of Kainoosh-Fard Bullock and her son, Kami Bullock.

Kainoosh-Fard and Kami Bullock.
8 USC 1151, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the proviso of section 201(b) and the provisions of section 204 of the Immigration and Nationality Act, Kainoosh-Fard Bullock and her son, Kami Bullock, shall be held and considered to be immediate relatives for purposes of such Act.

Approved October 31, 1978.

Private Law 95-156
95th Congress

An Act

Oct. 31, 1978
[H.R. 1940]

For the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos.

Dimitrios, Angeliki, and Georgios Panoutsopoulos.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees.

8 USC 1101 note.

Approved October 31, 1978.

Private Law 95-157
95th Congress

An Act

For the relief of Datronics Engineers, Incorporated.

Nov. 1, 1978
[S. 1562]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Review Panel of the United States Court of Claims having considered the case of Datronics Engineers, Incorporated against United States (Congressional Reference Case Numbered 8-72), and having determined that Datronics Engineers, Incorporated, has an equitable claim against the United States in the amount of $23,752, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Datronics Engineers, Incorporated, such amount in full settlement for all claims against the United States arising in connection with the unjustified termination of such company's subcontracts for the erection of steel towers at a VLF radio facility which the prime contractor was constructing in Australia for the United States Navy.

Datronics Engineers, Inc.

Approved November 1, 1978.

Private Law 95-158
95th Congress

An Act

For the relief of Julio Ortiz-Medina.

Nov. 2, 1978
[H.R. 1422]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (17) and (31) of section 212(a) of the Immigration and Nationality Act, Julio Ortiz-Medina may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided*, That these exemptions shall apply only to a grounds for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Julio Ortiz-Medina.
8 USC 1182.

Approved November 2, 1978.

Private Law 95-159
95th Congress

An Act

Nov. 2, 1978
[H.R. 1748]

For the relief of Carmela Scudieri.

Carmela Scudieri.
8 USC 1101 note.
8 USC 1153.
8 USC 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Carmela Scudieri shall be entitled to classification as a preference immigrant under section 203 (a) (5) of the Act, upon submission of a petition filed in her behalf by Maria Nigro, a citizen of the United States, pursuant to section 204 of the Act.

Approved November 2, 1978.

Private Law 95-160
95th Congress

An Act

Nov. 2, 1978
[H.R. 1775]

For the relief of Karin Ehard.

Karin Ehard.
8 USC 1153, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Karin Ehard shall be held and considered to be the natural-born alien daughter of Earl S. Boutelle, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved November 2, 1978.

Private Law 95-161
95th Congress

An Act

Nov. 2, 1978
[H.R. 1787]

For the relief of Paz A. Norona.

Paz A. Norona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General is authorized and directed to cancel any outstanding orders and warrants of deportation, warrants of arrest, and bond, which may have issued in the case of Paz A. Norona. From and after the date of the enactment of this Act, the said Paz A. Norona shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and orders have issued.

Approved November 2, 1978.

Private Law 95-162
95th Congress

An Act

For the relief of Carmen Cecilia Blanquicett.

Nov. 2, 1978
[H.R. 2291]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 101(b)(1) of the Immigration and Nationality Act, Carmen Cecilia Blanquicett shall be held and considered to be the natural-born alien daughter of Cecilia De Miguel, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Carmen Cecilia Blanquicett.
8 USC 1101.

Approved November 2, 1978.

Private Law 95-163
95th Congress

An Act

For the relief of Anthony Casamento.

Nov. 2, 1978
[H.R. 3307]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limitation contained in section 6248(a) of title 10, United States Code, with respect to the awarding of certain medals to persons in the naval service shall not apply with respect to the award of any such medal to Anthony Casamento, of West Islip, New York, for acts of valor performed by the said Anthony Casamento during November 1942 while engaged in combat operations on Guadalcanal Island as a corporal in the United States Marine Corps.

Anthony Casamento.

Approved November 2, 1978.

Private Law 95-164
95th Congress

An Act

For the relief of Veronica Judith Hudson.

Nov. 2, 1978
[H.R. 7795]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 101(a)(27)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), Veronica Judith Hudson shall be held and considered to be a returning resident alien.

Veronica Judith Hudson.

Approved November 2, 1978.

Private Law 95-165
95th Congress

An Act

Nov. 2, 1978
[H.R. 8192]

For the relief of Andrée Marie Helene McGiffin.

Andrée Marie Helene McGiffin.
8 USC 1101.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 101(a)(27)(A) of the Immigration and Nationality Act, Andrée Marie Helene McGiffin shall be held and considered to be a returning resident alien.

Approved November 2, 1978.

Private Law 95-166
95th Congress

An Act

Nov. 2, 1978
[H.R. 8751]

For the relief of Francesco Giuttari.

Francesco Giuttari.
8 USC 1153, 1154.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(4) and 204 of the Immigration and Nationality Act, Francesco Giuttari shall be held and considered to be the natural-born alien son of Tindaro Giuttari, a citizen of the United States: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved November 2, 1978.

Private Law 95-167
95th Congress

An Act

Nov. 2, 1978
[S. 464]

For the relief of Sameek Keshary Ray.

Sameek Keshary Ray.
8 USC 1101 note.

8 USC 1427.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time Sameek Keshary Ray has resided in the United States since August 10, 1970, shall be held and considered to meet the residence and physical presence requirements of section 316 of the said Act.

Approved November 2, 1978.

Private Law 95-168
95th Congress

An Act

For the relief of Lawrence Youngman.

Nov. 2, 1978
[S. 2079]

Lawrence Youngman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money in the Treasury not otherwise appropriated, the sum of $47,250 to Lawrence Youngman, of Fort Peck Indian Reservation, Montana, that amount representing the present fair market value, and rents and interests since 1930, on three hundred and twenty acres of upland grazing land and forty acres of river bottom land on the Fort Peck Indian Reservation, Montana, which were not allotted to him under the allotment schedule of 1929 authorized by the Act of August 1, 1914 (38 Stat. 593), because of an erroneous administrative report stating that he had died as an infant. That payment is in full settlement of all claims against the United States for compensation for the loss of the allotment which occurred on January 13, 1930.

Sec. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid, delivered to, or received by an agent or attorney on account of services rendered, in connection with this claim. Any person violating the provisions of this Act is guilty of a misdemeanor and may be fined in a sum not to exceed $1,000.

Sec. 3. Of the amount appropriated by this Act, $33,600 shall not be subject to Federal or State taxation. This amount reflects the current value of the land exclusive of rents and interest.

Approved November 2, 1978.

Private Law 95-169
95th Congress

An Act

For the relief of Margaret Perry.

Nov. 2, 1978
[S. 2349]

Margaret Perry.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Margaret Perry may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in their behalf by Mr. and Mrs. Michael Perry, citizens of the United States, pursuant to section 204 of such Act. The natural parents or brothers and sisters of the said Margaret Perry shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

8 USC 1101.
8 USC 1154.

Approved November 2, 1978.

Private Law 95-170
95th Congress

An Act

Nov. 3, 1978
[H.R. 4533]

For the relief of Gary Daves and Marc Cayer.

Gary Daves and Marc Cayer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $29,241.45 to Gary Daves of Albuquerque, New Mexico, and $25,869.47 to Marc Cayer of Quebec, Canada, for the period of their imprisonment in Southeast Asia which commenced while both Mr. Daves and Mr. Cayer were employed (as volunteers) by International Voluntary Services Incorporated pursuant to a Government contract between the Agency for International Development and International Voluntary Services Incorporated (AID/W235). Such compensation shall be in addition to that received by Mr. Daves pursuant to the provisions of the War Claims Act of 1948 (50 App. U.S.C. 2001 et seq.), and by both Mr. Daves and Mr. Cayer pursuant to the provisions of the War Hazards Compensation Act of 1942 (42 U.S.C. 1701 et seq.).

SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim. Any person violating this section shall be fined not more than $1,000.

Approved November 3, 1978.

CONCURRENT RESOLUTIONS

Private Law 95-170
95th Congress

An Act

Nov. 2, 1978
[H.R. [illegible]]

For the relief of [illegible]

[illegible]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Treasury [illegible]

Approved November 2, 1978.

JOINT MEETING

Jan. 19, 1978
[H. Con. Res. 452]

Communications from president.

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, January 19, 1978, at 9 o'clock postmeridian, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

Passed January 19, 1978.

ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Feb. 9, 1978
[H. Con Res. 473]

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, February 9, 1978, it stand adjourned until 12 o'clock meridian on Tuesday, February 14, 1978, and that when the Senate recesses on Friday, February 10, 1978, it stand in recess until 10:00 a.m. on Monday, February 20, 1978.

Passed February 9, 1978.

CORRECTION OF ENROLLED BILL H.R. 8638

Feb. 27, 1978
[H. Con Res. 486]

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, the Clerk of the House of Representatives shall make the following corrections (all page and line citations are to the Senate engrossed amendment):

Ante, p. 120.

On page 7, line 21, insert "goals" immediately after "policy".

On page 8, line 5, insert "international" immediately after "effective".

On page 11, line 7, strike out "strenthened" and insert in lieu thereof "strengthened".

On page 15, line 3, strike out "that" and insert in lieu thereof "the".

On page 15, line 8, strike out "the 1954" and insert in lieu thereof "this".

On page 15, line 17, strike out "assurance" and insert in lieu thereof "assurances".

On page 15, lines 18 and 19, strike out "subsection 127 a." and insert in lieu thereof "section 127 of this Act".

On page 16, line 4, strike out "303" and insert in lieu thereof "131 of this Act".

On page 16, line 11, insert "the" immediately before "Department".

On page 16, line 14, strike out "this section" and insert in lieu thereof "the Nuclear Non-Proliferation Act of 1978".

On page 16, line 21, strike out "section" and insert in lieu thereof "subsection".

On page 17, line 16, strike out "section" and insert in lieu thereof "subsection".

On page 17, line 17, strike out "this Act" and insert in lieu thereof "the Nuclear Non-Proliferation Act of 1978".

Ante, p. 120.

On page 17, line 19, strike out "section" and insert in lieu thereof "subsection".

On page 18, line 6, insert ", section 54 d., section 64, or section 111 b." immediately after "this section".

On page 19, line 1, strike out "Commission" and all that follows through "notice" in line 7 and insert in lieu thereof "Notice"; and in line 12, immediately after the period, insert the following: "Whenever the Director declares that he intends to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the Director's declaration shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection c. for the preparation of such Statement, whichever occurs first.".

On page 20, line 7, strike out "or" the first time it appears and insert in lieu thereof "of".

On page 20, line 21, strike out "standopint" and insert in lieu thereof "standpoint".

On page 22, line 8, strike out "arrangements" and insert in lieu thereof "arrangement".

On page 22, line 24, strike out "view" and insert in lieu thereof "judgment".

On page 23, line 2, strike out "other" and insert in lieu thereof "all the".

On page 25, line 11, strike out "of" the first time it appears and insert in lieu thereof "on".

On page 25, line 15, strike out "Act" and insert in lieu thereof "section".

On page 25, line 18, strike out "The" and all that follows through the period in line 21.

On page 26, line 1, insert "Nuclear" immediately after "International".

On page 26, line 2, insert "of the Nuclear Non-Proliferation Act
Ante, p. 120. 22 USC 3201 note. of 1978" immediately after "section 105".

On page 26, line 10, strike out "a".

On page 27, line 21, strike out the period and insert in lieu thereof a semicolon.

On page 28, line 1, strike out "the Atomic Energy" and insert in lieu thereof "this".

On page 28, line 7, insert "a" immediately after "(A)".

On page 29, line 14, strike out "this" and insert in lieu thereof "the 1954".

On page 30, line 1, strike out "facilitiy" and insert in lieu thereof "facility".

On page 30, line 6, insert ", until" immediately after "be".

On page 30, line 7, insert "the Commission" immediately after "(1)".

On page 30, line 22, strike out "application" and insert in lieu thereof "applications".

On page 31, line 22, strike out "Act" and insert in lieu thereof "section".

On page 32, line 16, strike out "that" and insert in lieu thereof "whether".

On page 32, line 23, strike out "that" and insert in lieu thereof "whether".

On page 33, line 3, strike out "that" and insert in lieu thereof "whether".

On page 33, lines 5 and 6, strike out "subsection 127 a." and insert in lieu thereof "section 127 of this Act".

On page 33, line 8, strike out "that in his" and insert in lieu thereof "whether in the Secretary's".

On page 33, line 15, insert "the Commission" immediately after "(2)".

On page 33, line 18, strike out "subsection 127 a." and insert in lieu thereof "section 127 of this Act".

On page 33, beginning in line 20, strike out "for a period of twenty-four months after the date of enactment of this section,".

On page 34, line 2, strike out "Act, and" and insert in lieu thereof "section, and for a period of twenty-three months".

On page 34, line 15, strike out "subsection 127 a." and insert in lieu thereof "section 127 of this Act".

On page 35, line 22, strike out "finding" and insert in lieu thereof "findings".

On page 39, line 10, insert "as" immediately after "at any time".

On page 39, line 15, strike out "section" and insert in lieu thereof "Act".

On page 45, line 25, strike out "State" and insert in lieu thereof "Senate".

On page 50, line 15, insert "subsection 123 d., 126 a. (2), 126 b. (2), 128 b., 129, 131 a. (3), or 131 f. (1)(A) of" immediately after "required by".

On page 50, line 25, strike out "such House" and insert in lieu thereof "the Congress".

On page 51, line 2, strike out "either" and insert in lieu thereof "any".

On page 51, line 5, strike out "any" and insert in lieu thereof "if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution. If no such resolution has been reported at the end of such period, the first".

On page 51, beginning in line 9, strike out "committtee has reported such a resolution or" and insert in lieu thereof "relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection a.) or when".

On page 51, line 11, strike out "the proviso in".

On page 56, line 6, insert "subsections b. and c. of" immediately after "provisions of".

On page 57, line 10, insert an opening quotation mark immediately before "No".

On page 60, line 16, insert ", uranium 233," immediately before "or uranium"; and in line 17, strike out "233 or".

On page 61, line 18, strike out "The"; in line 19, insert "The" immediately before "President"; and reset line 19 on page 61 through line 5 on page 63 on a 2 em indention.

On page 63, line 22, insert "and" immediately after the semicolon.

On page 65, line 2, strike out "; and" and insert in lieu thereof a period.

On page 65, line 3, strike out "e. following" and insert in lieu thereof "Following".

Beginning with line 3 on page 65 and continuing through line 8 on page 66, reset the lines full measure.

On page 65, line 19, strike out "f. if" and insert in lieu thereof "If,".

On page 66, line 17, strike out "303(a) of this" and insert in lieu thereof "131 of the 1954".

Beginning with line 24 on page 67 and continuing through line 6 on page 68, reset the lines on a 2 em indention; beginning with line 7 on page 68 and continuing through line 6 on page 69, reset the lines on a 4 em indention; and beginning with line 7 on page 69 and continuing through line 18 on page 70, reset the lines on a 2 em indention.

On page 74, line 23, strike out "inndustrialized" and insert in lieu thereof "industrialized".

On page 76, line 1, insert "the" immediately before "Department".

On page 78, line 22, strike out "and".

On page 79, line 13, strike out the period and insert in lieu thereof a semicolon.

On page 79, line 14, strike out "as" and insert in lieu thereof "an".

On page 80, line 19, strike out "chapter" and insert in lieu thereof "title".

Passed February 27, 1978.

Mar. 10, 1978
[H. Con. Res. 464]

CONGRESSIONAL APPROVAL OF DISTRICT OF COLUMBIA COUNCIL ACTION

Resolved by the House of Representatives (the Senate concurring), That the Congress approves the action of the District of Columbia Council described as follows: Amendment No. 1 (relating to initiative and referendum) to the District of Columbia Charter, as stated in section 2 of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved June 14, 1977 (Act 2-46), as amended by the Emergency Amendments to the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved November 1, 1977 (Act 2-94), and as ratified by a majority of the registered qualified electors of the District of Columbia voting in the referendum held for such ratification on November 8, 1977, such amendment having been submitted to the Congress for its approval on December 2, 1977, pursuant to section 303 of the District of Columbia Self-Government and Governmental Reorganization Act.

D.C. Code 1-125.

Passed March 10, 1978.

Mar. 10, 1978
[H. Con. Res. 471]

CONGRESSIONAL APPROVAL OF DISTRICT OF COLUMBIA COUNCIL ACTION

Resolved by the House of Representatives (the Senate concurring), That the Congress approves the action of the District of Columbia Council described as follows: Amendment No. 2 (relating to recall of elected officials) to the District of Columbia charter, as stated in section 2 of the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved June 14, 1977 (Act 2-46), as amended by the Emergency Amendments to the Initiative, Referendum, and Recall Charter Amendments Act of 1977, approved November 1, 1977 (Act 2-94), and as ratified by a majority of the registered qualified electors of the District of Columbia voting in the referendum held for such ratification on November 8, 1977, such amendment having been submitted to the Congress for its approval on December 2, 1977, pursuant to section 303 of the District of Columbia Self-Government and Governmental Reorganization Act.

D.C. Code 1-125.

Passed March 10, 1978.

NATIONAL RAILROAD PASSENGER CORPORATION

Mar. 21, 1978
[H. Con. Res. 494]

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, for the purpose of maintaining the present service over the basic system routes, National Railroad Passenger Corporation may, notwithstanding the pendency of the route reexamination study presently being conducted by the Secretary of Transportation and without regard to the Criteria and Procedures adopted pursuant to section 404(c) of the Rail Passenger Service Act, undertake the provision of any basic system intercity rail passenger service pursuant to section 404(a) by contracting with a railroad filing for the discontinuance of such service.

45 USC 564.

Passed March 21, 1978.

ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Mar. 22, 1978
[H. Con. Res. 544]

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, March 22, 1978, it stand adjourned until 12 o'clock meridian on Monday, April 3, 1978, and that when the Senate recesses on Thursday, March 23, 1978, it stand in recess until Wednesday, March 29, 1978 or April 3, 1978, as determined by the Senate on Thursday, March 23, 1978.

Passed March 22, 1978.

KOSCIUSZKO MILITARY ENGINEERING SITES

Apr. 3, 1978
[S. Con. Res. 44]

Whereas the year of 1977 marks the bicentennial of the Battle of Saratoga, a turning point of the American War of Independence; and

Whereas a part of the victory at Saratoga is credited to the military genius of General Thaddeus Kosciuszko of Poland; and

Whereas the engineering skill and advice of General Thaddeus Kosciuszko contributed significantly to the tactics of the Continental Army in both the north and south theaters of the American War of Independence: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the sites of service of General Thaddeus Kosciuszko as identified by but not limited to the Polish National Alliance and the Copernicus Society should be recognized by the Federal, State, and local governments as the Kosciuszko Military Engineering Sites and marked by suitable markers; and be it further

Resolved, That the Secretary of the Interior be encouraged to accept the donations of such suitable markers for placement within units of the National Park System, pursuant to the authority granted to the Secretary of the Interior in the Act of August 21, 1935 (49 Stat. 666). 16 USC 461.

Agreed to April 3, 1978.

May 5, 1978
[H. Con. Res. 549]

CONFERENCE ON COOPERATION AND SECURITY IN EUROPE

Whereas the Belgrade meeting of the Conference on Security and Cooperation in Europe has now concluded;

Whereas H. Con. Res. 249, adopted June 15, 1977, urged that the Belgrade meeting include the presentation and thorough discussion of all violations of the Helsinki Accords; 91 Stat. 1675.

Whereas the United States delegation to the Belgrade meeting displayed great determination and resourcefulness in forthrightly expressing the concern of the Congress and people of the United States over specific violations of the human rights provisions of the Helsinki Accords by some of the signatory states, including the Soviet Union and some Eastern European countries; and

Whereas violations of the human rights guaranteed under the Helsinki Accords continue in some signatory states: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the United States delegation to the Belgrade meeting of the Conference on Cooperation and Security in Europe is accorded the gratitude of the Congress for its determination and vigor in demanding a thorough review of compliance with the human rights provisions of the Helsinki Accords by the signatory states and for its success in obtaining such a review which brought into the spotlight of world opinion those abuses which were of greatest concern to the Congress and people of the United States.

Sec. 2. The Congress urges the President and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to repressive actions and to violations of basic human rights which are contrary to the Helsinki Accords.

Sec. 3. The Congress urges the President and other appropriate executive branch officials to use every feasible bilateral contact to emphasize to the Soviet Union and other Eastern European countries that the solemn commitments given by such countries call for their observance of human rights.

Passed May 5, 1978.

May 17, 1978
[S. Con. Res. 80]

CONGRESSIONAL BUDGET, FISCAL YEAR 1978

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to section

301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978— 31 USC 1322.

(1) the recommended level of Federal revenues is $447,900,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $24,700,000,000;

(2) the appropriate level of total new budget authority is $568,850,000,000;

(3) the appropriate level of total budget outlays is $498,800,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $50,900,000,000; and

(5) the appropriate level of the public debt is $849,100,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $97,100,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
  (A) New budget authority, $128,700,000,000;
  (B) Outlays, $115,700,000,000.
(2) International Affairs (150):
  (A) New budget authority, $12,800,000,000;
  (B) Outlays, $6,900,000,000.
(3) General Science, Space, and Technology (250):
  (A) New budget authority, $5,200,000,000;
  (B) Outlays, $5,000,000,000.
(4) Energy (270):
  (A) New budget authority, $10,400,000,000;
  (B) Outlays, $9,800,000,000.
(5) Natural Resources and Environment (300):
  (A) New budget authority, $13,600,000,000;
  (B) Outlays, $12,200,000,000.
(6) Agriculture (350):
  (A) New budget authority, $12,300,000,000;
  (B) Outlays, $8,300,000,000.
(7) Commerce and Housing Credit (370):
  (A) New budget authority, $5,900,000,000;
  (B) Outlays, $3,600,000,000.
(8) Transportation (400):
  (A) New budget authority, $20,300,000,000;
  (B) Outlays, $17,800,000,000.
(9) Community and Regional Development (450):
  (A) New budget authority, $11,100,000,000;
  (B) Outlays, $9,000,000,000.
(10) Education, Training, Employment, and Social Services (500):
  (A) New budget authority, $33,000,000,000;
  (B) Outlays, $31,400,000,000.
(11) Health (550):
  (A) New budget authority, $52,550,000,000;
  (B) Outlays, $49,500,000,000.

(12) Income Security (600):
- (A) New budget authority, $193,100,000,000;
- (B) Outlays, $160,200,000,000.

(13) Veterans Benefits and Services (700):
- (A) New budget authority, $21,300,000,000;
- (B) Outlays, $21,000,000,000.

(14) Administration of Justice (750):
- (A) New budget authority, $4,300,000,000;
- (B) Outlays, $4,200,000,000.

(15) General Government (800):
- (A) New budget authority, $4,100,000,000;
- (B) Outlays, $4,100,000,000.

(16) General Purpose Fiscal Assistance (850):
- (A) New budget authority, $9,700,000,000;
- (B) Outlays, $9,600,000,000.

(17) Interest (900):
- (A) New budget authority, $47,000,000,000;
- (B) Outlays, $47,000,000,000.

(18) Allowances (920):
- (A) New budget authority, $800,000,000;
- (B) Outlays, $800,000,000.

(19) Undistributed Offsetting Receipts (950):
- (A) New budget authority, —$17,300,000,000;
- (B) Outlays, —$17,300,000,000.

Agreed to May 17, 1978.

May 22, 1978
[H. Con. Res. 624]

SOVIET HELSINKI GROUPS

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression;

Whereas the International Covenant on Civil and Political Rights guarantees that everyone shall have the right to freedom of thought, conscience, and religion, and the right to hold opinions without interference;

Whereas the Soviet Union signed the Final Act of the Conference on Cooperation and Security in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Principle VII of the Final Act specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights and Principle IX confirms the relevant and positive role individuals play in the implementation of the provisions of the Final Act;

Whereas acting in conformity with these confirmed rights, individuals in the Soviet Union formed the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics and sought, through those groups in Moscow, the Ukraine, Lithuania, Georgia, and Armenia, to call the attention of public opinion, their own government, and other Final Act signatories to documented violations of human rights by compiling and issuing open, thorough reports on official practices toward religious believers, persons seeking to rejoin or visit relatives abroad, persons confined in mental hospitals because of their political beliefs, persons confined in prisons, prison camps, or internal exile because of their efforts to express such beliefs or disseminate their views and information, and minority groups seeking cultural and political rights in the Soviet Union;

Whereas twenty-two members of the Helsinki Groups and their affiliates have been punished merely for their activities and participation in those Groups: two, Pyotr Grigorenko and Tomas Venclova, were stripped of citizenship while abroad and thus banished from their homeland; one, Malva Landa, has been sent into internal exile; and nineteen others, Eduard Arutyunyan, Zviad Gamsakhurdia, Aleksandr Ginzburg, Grigory Goldshtein, Ambartsum Khlgatyan, Merab Kostava, Levko Lukyanenko, Myroslav Marynovych, Mykola Matusevych, Robert Nazaryan, Yuri Orlov, Viktoras Petkus, Aleksandr Podrabinek, Viktor Rtskhiladze, Mykola Rudenko, Feliks Serebrov, Anatoly Shcharansky, Oleksiy Tykhy, and Pyotr Vins, are presently imprisoned;

Whereas Soviet authorities have already tried and convicted several members of the Helsinki Groups and their associates for their activities in promoting the standards of the Helsinki Final Act;

Whereas Yuri Orlov, the leader and founding member of the Moscow Group, was convicted this week in the Soviet Capital for such activities and sentenced to seven years in prison camp and five years in internal exile, and Zviad Gamsakhurdia and Merab Kostava, two founding members of the Georgian Group, were brought to trial in Tbilisi this week as well to face similar charges;

Whereas the activities of the Helsinki Groups and their members should be protected, not punished, in accordance with the Helsinki Final Act, the Universal Declaration, and the International Covenant; and

Whereas the arrests and trials of the members of these Groups call into question the intention of the Soviet Union to adhere in good faith to the international treaties and agreements to which it is a party: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, in conformity with the Helsinki Final Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and basic standards of justice, the unjustly imprisoned members and affiliates of the Soviet Helsinki Groups should be granted their freedom and allowed to pursue their lawful activities on behalf of basic human rights without further harassment.

Sec. 2. The Congress urges the President, the Secretary of State, and other appropriate executive branch officials to continue to express at every suitable opportunity and in the strongest terms the opposition of the United States to the imprisonment of members of the Helsinki Groups.

Sec. 3. The Clerk of the House of Representatives shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

Passed May 22, 1978.

May 25, 1978
[H. Con. Res. 634]

ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 25, 1978, it stand adjourned until 12 o'clock meridian on Wednesday, May 31, 1978, and that when the Senate recesses on Friday, May 26, 1978, it stand in recess until 12 o'clock meridian on Monday, June 5, 1978.

Passed May 25, 1978.

June 7, 1978
[S. Con. Res. 89]

"KOREAN INFLUENCE INQUIRY"

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Ethics two thousand additional copies of volume II of its hearings of the Ninety-fifth Congress, second session, entitled "Korean Influence Inquiry".

Agreed to June 7, 1978.

June 8, 1978
[H. Con. Res. 635]

CORRECTIONS OF ENROLLED BILL H.R. 5493

Ante, p. 341.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 5493) to extend until October 1, 1980, the appropriation authorizations for the Seal Beach, Great Dismal Swamp, and San Francisco Bay National Wildlife Refuges, the Clerk of the House of Representatives shall make the following corrections:

Page 2, line 6, of the House engrossed bill, strike out "Sec. 3." and insert "Sec. 2.".

Amend the title of the House engrossed bill to read as follows: "A bill to extend until October 1, 1980, the appropriation authorizations for the Great Dismal Swamp and San Francisco Bay National Wildlife Refuges.".

Passed June 8, 1978.

June 23, 1978
[H. Con. Res. 441]

"NEW PERSPECTIVES IN HEALTH CARE FOR OLDER AMERICANS"

Printing of additional copies.

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Select Committee on Aging 1,500 copies of the report "New Perspectives in Health Care for Older Americans", Ninety-fourth Congress.

Passed June 23, 1978.

"THE UNITED STATES CAPITOL"

June 23, 1978
[H. Con. Res. 561]

Resolved by the House of Representatives (the Senate concurring), That there shall be revised and reprinted as a House Document a visitors' information folder entitled "The United States Capitol" and that eight hundred and eighty-four thousand copies shall be printed for the use of the United States House of Representatives. Two hundred thousand copies shall be printed for the use of the United States Senate. One million copies shall also be printed for use of the Capitol Guide Board.

Revision and reprinting as House document.

Passed June 23, 1978.

HUNGARIAN PEOPLE'S REPUBLIC—NONDISCRIMINATORY TREATMENT

June 27, 1978
[H. Con. Res. 555]

Resolved by the House of Representatives (the Senate concurring), That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic transmitted by the President to the Congress on April 7, 1978.

Passed June 27, 1978.

ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

June 29, 1978
[H. Con. Res. 654]

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 29, 1978, it stand adjourned until 12 o'clock meridian on Monday, July 10, 1978, and that when the Senate completes its disposition of H.R. 12426, Calendar No. 883, it stand in recess until 11:00 o'clock a.m. on Monday, July 10, 1978.

Ante, p. 460.

Passed June 29, 1978.

HELSINKI FINAL ACT, TRIALS OF SUPPORTERS

July 12, 1978
[S. Con. Res. 95]

Whereas the Soviet Union is a signatory to the Final Act of the Conference on Security and Cooperation in Europe, signed at Helsinki, Finland, on August 10, 1975, which provides for basic human rights including freedom of conscience, religion, and emigration;

Whereas Anatoly Shcharansky, Viktoras Petkus, and Aleksandr Ilyich Ginzburg who have supported the Helsinki Final Act have been or are being tried and punished by the Soviet Government for their efforts.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the trials of Anatoly Shcharansky, Viktoras Petkus, and Aleksandr Ilyich Ginzburg who have defended the Helsinki Final Act are matters of deep concern to the American people; that these deplorable events inevitably affect the climate of our relations and impose obstacles to the building of confidence and cooperation between our two countries; that the Congress urges the U.S.S.R. Supreme Soviet and its leadership to seek a humanitarian resolution to these cases and to work toward improving the climate in United States-Soviet relations.

Agreed to July 12, 1978.

July 18, 1978
[H. Con. Res. 265]

DRUG TRAFFIC—ENDORSEMENT OF HERMOSILLO DECLARATION

Whereas the legislators from the United States and Mexico who attended the seventeenth Mexico-United States Interparliamentary Conference at Hermosillo, Sonora, Mexico, adopted the Hermosillo Declaration on Combating Traffic in Drugs at the International Level on May 28, 1977; and

Whereas this declaration condemns, "without reservations of any kind the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health"; and

Whereas this declaration recommends that "energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic"; and

Whereas this declaration expresses the desire by Mexico and the United States to intensify their efforts to eradicate the "cultivation, traffic, use and abuse of drugs," particularly heroin and other dangerous drugs, and to combat the organized criminal traffickers of narcotics; and

Whereas efforts to end narcotics trafficking and eliminate the illicit supply of opium production requires the concerted action of all members of the international community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress endorses the Hermosillo Declaration and encourages other nations to adopt this declaration.

Sec. 2. The Congress urges the President to encourage other nations to cooperate in an international effort to eradicate narcotics trafficking and to eliminate the illicit production of opium.

Passed July 18, 1978.

ADJOURNMENT PROVISIONS

July 27, 1978
[S. Con. Res. 98]

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Agreed to July 27, 1978.

CORRECTION IN ENROLLED BILL H.R. 10732

Aug. 14, 1978
[H. Con. Res. 687]

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 10732) to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981, the Clerk of the House of Representatives shall strike out "paragraph (2)," in section 4(4) of the bill and insert in lieu thereof "paragraph (3),".

Ante, p. 519.

16 USC 1801 note.

Passed August 14, 1978.

ADJOURNMENT—HOUSE OF REPRESENTATIVES AND SENATE

Aug. 17, 1978
[H. Con. Res. 696]

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 17, 1978, it stand adjourned until 12 o'clock meridian on Wednesday, September 6, 1978, and that when the Senate recesses on Friday, August 25, Saturday, August 26, Monday, August 28, or Tuesday, August 29, 1978, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand in recess until 10 o'clock a.m. on Wednesday, September 6, 1978.

Passed August 17, 1978.

CORRECTION OF ENROLLED BILL H.R. 6669

Sept. 6, 1978
[S. Con. Res. 103]

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 6669), to establish a national climate program, and for other purposes, the Clerk of the House of Representatives shall make the following correction:

Ante, p. 601.

In section 5(b)(1), strike "(8)" and insert in lieu thereof "(9)".

Agreed to September 6, 1978.

Sept. 18, 1978
[H. Con. Res. 713]

JOINT MEETING

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Monday, September 18, 1978, at 8 o'clock postmeridian, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

Passed September 18, 1978.

Sept. 19, 1978
[S. Con. Res. 105]

KOREAN INFLUENCE INQUIRY

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Ethics five thousand additional copies of its final report to the Senate, and two thousand additional copies of volume II of its executive session hearings, on the Korean influence inquiry.

Agreed to September 19, 1978.

Sept. 23, 1978
[H. Con. Res. 683]

CONGRESSIONAL BUDGET, FISCAL YEAR 1979

31 USC 1331.

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $450,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $19,900,000,000;

(2) the appropriate level of total new budget authority is $561,019,000,000;

(3) the appropriate level of total budget outlays is $489,790,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $39,790,000,000; and

(5) the appropriate level of the public debt is $838,100,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $40,100,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
  (A) New budget authority, $127,013,000,000;
  (B) Outlays, $112,403,000,000.

(2) International Affairs (150):
  (A) New budget authority, $12,365,000,000;
  (B) Outlays, $7,119,000,000.
(3) General Science, Space, and Technology (250):
  (A) New budget authority, $5,146,000,000;
  (B) Outlays, $4,991,000,000.
(4) Energy (270):
  (A) New budget authority, $9,601,000,000;
  (B) Outlays, $8,684,000,000.
(5) Natural Resources and Environment (300):
  (A) New budget authority, $12,963,000,000;
  (B) Outlays, $11,380,000,000.
(6) Agriculture (350):
  (A) New budget authority, $12,225,000,000;
  (B) Outlays, $7,628,000,000.
(7) Commerce and Housing Credit (370):
  (A) New budget authority, $5,551,000,000;
  (B) Outlays, $2,814,000,000.
(8) Transportation (400):
  (A) New budget authority, $19,451,000,000;
  (B) Outlays, $17,063,000,000.
(9) Community and Regional Development (450):
  (A) New budget authority, $10,327,000,000;
  (B) Outlays, $9,474,000,000.
(10) Education, Training, Employment and Social Services (500):
  (A) New budget authority, $33,887,000,000;
  (B) Outlays, $31,111,000,000.
(11) Health (550):
  (A) New budget authority, $52,158,000,000;
  (B) Outlays, $49,298,000,000.
(12) Income Security (600):
  (A) New budget authority, $192,139,000,000;
  (B) Outlays, $159,650,000,000.
(13) Veterans Benefits and Services (700):
  (A) New budget authority, $21,251,000,000;
  (B) Outlays, $20,913,000,000.
(14) Administration of Justice (750):
  (A) New budget authority, $4,163,000,000;
  (B) Outlays, $4,173,000,000.
(15) General Government (800):
  (A) New budget authority, $4,098,000,000;
  (B) Outlays, $4,035,000,000.
(16) General Purpose Fiscal Assistance (850):
  (A) New budget authority, $8,931,000,000;
  (B) Outlays, $8,959,000,000.
(17) Interest (900):
  (A) New budget authority, $48,000,000,000;
  (B) Outlays, $48,001,000,000.
(18) Allowances (920):
  (A) New budget authority, −$1,087,000,000;
  (B) Outlays, −$743,000,000.
(19) Undistributed Offsetting Receipts (950):
  (A) New budget authority, −$17,163,000,000;
  (B) Outlays, −$17,163,000,000.

Passed September 23, 1978.

Sept. 26, 1978
[S. Con. Res. 90]

"A LEGISLATIVE HISTORY OF THE WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972"

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Environment and Public Works one thousand additional copies each of volumes 1 and 2 of its committee print of the Ninety-third Congress entitled "A Legislative History of the Water Pollution Control Act Amendments of 1972".

Agreed to September 26, 1978.

Sept. 26, 1978
[S. Con. Res. 96]

"INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS"

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Intelligence six hundred copies of book II of the final report of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, Ninety-fourth Congress, second session, entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94–755).

Agreed to September 26, 1978.

Sept. 26, 1978
[S. Con. Res. 97]

"PRELIMINARY GUIDE TO EXPORT OPPORTUNITIES TO JAPAN"

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Banking, Housing, and Urban Affairs two thousand additional copies of its committee print of the Ninety-fifth Congress, second session, entitled "Preliminary Guide to Export Opportunities to Japan".

Agreed to September 26, 1978.

Sept. 26, 1978
[S. Con. Res. 106]

EULOGIES TO HUBERT H. HUMPHREY

Printing of additional copies.

Resolved by the Senate (the House of Representatives concurring), That there shall be printed five thousand additional bound copies of the eulogies to Hubert H. Humphrey, late a Senator from the State of Minnesota, to be furnished to his successor in office.

Agreed to September 26, 1978.

MIDDLE EAST PEACE EFFORTS

Sept. 28, 1978
[H. Con. Res. 715]

Whereas the people of the United States earnestly hope and pray that a just and durable peace in the Middle East can be negotiated by the parties to the Arab-Israeli conflict;

Whereas President Carter has responded to this hope by his courageous and dedicated effort in convening the Camp David Summit;

Whereas President Anwar al-Sadat and Prime Minister Menachem Begin have been willing to negotiate with understanding, humility, and a willingness to compromise in order to try to achieve solutions acceptable to all sides and promote lasting peace and justice in the Middle East; and

Whereas continued good will and cooperation will be needed from the leaders of all states in the Middle East: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress commends President Carter for his leadership in promoting peace in the Middle East and endorses his efforts to further encourage support and understanding among the leaders of all states in the Middle East of the two agreements reached at the Camp David Summit.

SEC. 2. The Congress commends President Sadat and Prime Minister Begin for the courageous steps they have taken to resolve the differences between their nations and to bring about a comprehensive, just, and durable peace between Israel and its Arab neighbors.

SEC. 3. It is the sense of the Congress that the framework for Middle East peace embodied in the two agreements reached at the Camp David Summit provides the basis for peace treaties among the parties to the Arab-Israeli conflict and provides hope that human dignity, justice, and security for all peoples in the Middle East can be achieved.

SEC. 4. It is further the sense of the Congress that the United States should continue to pursue further direct peace talks among parties in the Middle East in order to build on the momentum created by the Camp David agreements to promote a comprehensive settlement among all parties to the conflict.

Passed September 28, 1978.

CORRECTION OF ENROLLED BILL H.R. 8149

Sept. 30, 1978
[H. Con. Res. 725]

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 8149) to provide customs procedural reform, and for other purposes. The Clerk of the House is authorized to receive such bill if it is returned when the House is not in session. Upon the return of such bill, the action of the Speaker of the House of Representatives and the President pro tempore of the Senate in signing it shall be deemed rescinded and the Clerk of the House shall reenroll the bill with the following correction:

Ante, p. 888.

In section 484(a)(1)(B) of the Tariff Act of 1930, as amended by section 102(a)(1) of the bill, after "shall" insert "file".

Passed September 30, 1978.

Oct. 2, 1978
[H. Con. Res. 727]

CORRECTION OF ENROLLED BILL H.R. 8394

Ante, p. 1319.

Resolved by the House of Representatives (*the Senate concurring*), That in the enrollment of the bill (H.R. 8394), to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, the Clerk of the House of Representatives shall make the following correction: Strike out subparagraph (B) of paragraph (1) of subsection (a) of the first section of the bill and insert in lieu thereof the following:

"(B) by inserting after 'National Wildlife Refuge System' the second time it appears ', National Fish Hatcheries, or other areas,' ".

Passed October 2, 1978.

Oct. 11, 1978
[S. Con. Res. 108]

PRAYERS OF REV. EDWARD ELSON, SENATE CHAPLAIN

Printing as Senate document; additional copies.

Resolved by the Senate (*the House of Representatives concurring*), That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-fifth Congress, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound two thousand additional copies of such document, of which one thousand and thirty shall be for the use of the Senate and nine hundred and seventy shall be for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

Agreed to October 11, 1978.

Oct. 11, 1978
[S. Con. Res. 110]

CORRECTIONS OF ENROLLED BILL S. 2640

Ante, p. 1111.

Resolved by the Senate (*the House of Representatives concurring*), That in the enrollment of the bill (S. 2640), to reform the civil service laws, the Secretary of the Senate shall make the following corrections:

(1) In section 101(a), in the proposed section 2301(b)(9)(A), insert "any" before "law,".

(2) In section 101(a), in the proposed section 2301(b)(9)(B), strike out "or" the first place it appears.

(3) In section 101(a), in the proposed section 2302(a)(2)(C), insert a comma after "Courts".

(4) In section 101(a), in the proposed section 2302(b)(1)(C), strike out "by" and insert "under".

(5) In section 101(a), in the proposed section 2302(b)(8)(A), strike out "law or" and insert "law and".

(6) In section 101(a), in the proposed section 2303(a), insert a comma after "such authority" and insert "(A)" after "section 2302(a)(2)".

(7) In section 101(a), in the proposed section 2303(b), insert "such" before "a personnel action".

(8) In section 101(a), in the proposed section 2305, strike out "(78 Stat.)." and insert "(78 Stat. 168; 50 U.S.C. 831–835).".

(9) In section 201(a), in the proposed section 1101, insert a comma after "official seal" and after "judicially noticed".

(10) In section 201(a), in the proposed section 1103(b)(2)(A), insert "of this subsection" after "paragraph (1)".

(11) In section 201(b)(3), strike out "(122) of such title is amended to read as follows:" and insert "of such title is amended by inserting after paragraph (121) the following:".

(12) In section 202(a), in the proposed section 1205(e), strike out "its" in paragraph (1) thereof, and strike out "paragraph" in paragraph (3)(B) thereof and insert "subsection".

(13) In section 202(a), in the proposed section 1206(b)(1), strike out "law or" and insert "law and", and strike out the comma after "information".

(14) In section 202(a), in the proposed section 1206(b)(3)(A), strike out "section" and insert "subsection".

(15) In section 202(a), in the proposed section 1206(b)(5)(A) and (7), strike out "subparagraph" and insert "paragraph", strike out the comma after "been" in paragraph (7).

(16) In section 202(a), in the proposed section 1207(a)(5), insert a comma after "date".

(17) In section 202(a), in the proposed section 1208(c), strike out "paragraph" and insert "subsection".

(18) In section 202(a), in the proposed section 1209(b), strike out "action" and insert "actions".

(19) In section 203(a), in the proposed section 4303(f)(1), insert "or manager" after "supervisor".

(20) In section 205, in the proposed section 7701(b), strike out "experienced appeals officer" and insert "employee experienced in hearing appeals".

(21) In section 205, in the proposed section 7701(e)(2), strike out "regulations" and insert "regulation".

(22) In section 205, in the proposed section 7701(g)(1), insert "a" before "prohibited".

(23) In section 205, in the proposed section 7701(g)(2), strike out "706k" and insert "706(k)".

(24) In section 205, in the proposed section 7701(i)(2), strike out "the prior" each place it appears and insert "that".

(25) In section 205, in the proposed section 7702, insert "or applicant" after "employee" each place it appears (other than the first place it appears in subsection (a)(1) and each place it appears in subsection (d)(4) and (5)).

(26) In section 205, in the proposed section 7702(a)(2)(A), strike out "subsection (a)(1)(A) of this section" and insert "paragraph (1)(A) of this subsection".

(27) In section 205, in the proposed section 7702(a)(2)(B), strike out "an" and insert "any", and strike out "subsection (a)(1)(B) of this section" and insert "paragraph (1)(B) of this subsection".

(28) In section 205, in the proposed section 7702(c), strike out "Commission" the fifth place it appears and insert "Board".

(29) In section 205, in the proposed section 7702(d)(1), strike out "section." and insert "subsection.", and strike out "any Board" and insert "the Board".

(30) In section 205, in the proposed section 7702(d)(3), strike out "(1)" and insert "(2)", and insert "to the Board" after "subsection".

(31) In section 205, in the proposed section 7702(d)(5), strike out "subsection" the third place it appears and insert "section".

(32) In section 205, in the proposed section 7702(e)(1), strike out "an employee" and insert "the employee", insert "to the same extent and" after "civil action", and insert "section" before "15(c)".

(33) In section 205, in the proposed section 7702(e)(2), insert a comma after "If".

(34) In section 308(d), redesignate the proposed subsection (d) as subsection (e).

(35) In section 308(g)(3), strike out "service" and insert "services", and strike out "paragraph (1)" and insert "paragraph (2)".

(36) In section 402(a), strike out "307(a)" and insert "307(b)".

(37) In section 402(a), in the proposed section 3131, strike out "(a)".

(38) In section 402(a), in the proposed section 3131(6) strike out "benefits".

(39) In section 402(a), in the proposed section 3132(a)(1)(B), strike out "any positions" and all that follows down through "2425),".

(40) In section 402(a), in the proposed section 3132(a)(2), strike out "(other than" and all that follows down through "title)".

(41) In section 402(a), in the proposed section 3132(b)(3)(B), strike out the comma after "law".

(42) In section 402(a), in the proposed section 3133(a), strike out "odd" and insert "even".

(43) In section 402(a), in the proposed section 3133(c), strike out "subsection (b)" and insert "subsection (a)".

(44) In section 402(a), in the proposed section 3135(a)(8), strike out "appointees" and insert "reserved positions".

(45) In section 404(b), in the proposed section 3594(c)(1)(B), strike out "higher" and insert "highest".

(46) In section 405(a), in the proposed section 4313(4), insert "performance" before "quality".

(47) In section 405(a), in the proposed section 4314(c)(3), strike out "(2)" and insert "(1)".

(48) In section 413(d), strike out "section 3393(c) and (d)" and insert "section 3393(b)-(e)".

(49) In section 601(a), in the proposed section 4703(f) and (g), strike out "section 7111" and insert "chapter 71", and strike out "subsection (b)" and insert "subsection (a)".

(50) In section 701, add at the end of the proposed section 7105(d) the following new sentence: "The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.", and strike out the last sentence in the proposed section 7105(e)(2).

(51) In section 701, in the proposed section 7105(g)(2), strike out "section 7133" and insert "section 7132".

(52) In section 701, in the proposed section 7111(b), insert "supervise or" before "conduct".

(53) In section 701, in the proposed section 7114, strike out "provisions negotiated by" in subsection (a)(5) thereof and insert

"procedures negotiated under", and strike out "high" in subsection (c)(4) thereof and insert "higher".

(54) In section 701, in the proposed section 7117(b)(1), strike out "matters" and insert "matter".

(55) In section 701, in the proposed section 7119(c)(5)(A)(ii), insert "the impasse" before "through".

(56) In section 701, in the proposed section 7119(c)(5)(B)(ii), strike out "section 7133" and insert "section 7132".

(57) In section 701, in the proposed section 7121(d), strike out "7701 of this title".

(58) In section 701, in the proposed section 7121(f), strike out "section 7702" and insert "section 7703".

(59) In section 701, insert "or" at the end of the proposed section 7122(a)(1).

(60) In section 701, in the proposed section 7123(d), strike out "or restraining order" and insert "(including a restraining order)".

(61) In section 703(a)(1), strike out "section 312" and insert "section 310".

(62) In section 703, redesignate paragraph (2) of subsection (b) as subsection (c)(1), and redesignate subsection (c)(1) as paragraph (2) of subsection (c).

(63) In section 703(a)(3), in the proposed section 7211, strike out "individual" and insert "individually".

(64) In section 906(c)(2)(A), strike out the period and insert the following: "and inserting in lieu thereof 'chapter'.".

(65) In section 906(c)(4), insert a comma after "Code".

(66) In section 906(c)(5), strike out "chapter 34" and insert "chapter 33".

Agreed October 11, 1978.

CORRECTIONS OF ENROLLED BILL H.R. 12255

Oct. 11, 1978
[H. Con. Res. 730]

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 12255) to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Ante, p. 1513.

(1) Redesignate subsection (i) of section 205 of the Older Americans Act of 1965, as proposed to be amended by section 102(e)(4)(B) of the bill, as subsection (h).

(2) In subparagraphs (B), (D), and (H) of section 307(a)(13) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "home-delivered" each place it appears therein and insert in lieu thereof "home delivered".

(3) In section 307(a)(15)(B)(ii) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "elderly" and insert in lieu thereof "older".

(4) In section 307(b)(2) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "such State agency" and insert in lieu thereof "the State agency".

(5) In section 321(b)(1) of the Older Americans Act of 1965, as proposed to be amended by section 103(b) of the bill, strike out "provisions" and insert in lieu thereof "provision".

(6) In section 411(b)(2)(C) of the Older Americans Act of 1965, as proposed to be added by section 104(b)(2) of the bill, strike out "persons" and insert in lieu thereof "individuals".

(7) In the last sentence of section 502(e) of the Older Americans Act of 1965, as proposed to be added by section 105(b)(2) of the bill, strike out "is authorized".

(8) In section 506(a)(1)(B) of the Older Americans Act of 1965, as proposed to be added by section 105(e)(1)(A) of the bill, strike out "shall" and insert in lieu thereof "may".

(9) In subsection (a) and subsection (b) of section 301 of the bill, strike out "federally assisted" each place it appears therein and insert in lieu thereof "federally-assisted".

(10) In section 401 of the bill, redesignate subsection (d) as subsection (e) and insert after subsection (c) the following new subsection:

"(d) Section 305(b) of the Age Discrimination Act of 1975 is amended by adding at the end thereof the following new sentence: 'Whenever the head of any Federal department or agency who prescribes regulations under section 304 withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 304.' ".

Passed October 11, 1978.

Oct. 11, 1978
[H. Con. Res. 739]

CORRECTION OF ENROLLED BILL H.R. 11318

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House is authorized and directed to correct section 203, line 4, by striking "7(i)" and inserting "7(j)" in the enrollment of the bill (H.R. 11318) to amend the Small Business Act and the Small Business Investment Act of 1958.

Ante, p. 1757.
15 USC 631 note.
15 USC 661 note.

Passed October 11, 1978.

Oct. 11, 1978
[H. Con Res. 740]

CORRECTIONS OF ENROLLED BILL H.R. 10587

Ante, p. 1803.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 10587, the Clerk of the House of Representatives be authorized to make the following corrections:

(1) In section 14(a), change the paragraph designated "(b)(3)" to " '(3)".

(2) In section 14, change the paragraph beginning "Sec. 14(b)" to

“(b)” and insert quotation marks after the period of the immediately preceding paragraph ending with the word “products”.

Passed October 11, 1978.

CORRECTIONS OF H.R. 11445

Oct. 12, 1978
[S. Con. Res. 111]

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 11445) to amend the Small Business Act and the Small Business Investment Act of 1958 the Clerk of the House of Representatives shall make the following corrections:

Vetoed.
15 USC 631 note.
15 USC 661 note.

(1) In section 20(1)(5) of the Small Business Act as proposed to be added by section 102 of the bill, insert a comma after the phrase “Federal department, agency or instrumentality” the first time it appears.

(2) In section 503(a)(4) of the Small Business Act as proposed to be added by section 117(a) of the bill, strike the comma after the words “guarantee is made under this subsection”.

(3) In section 117(b) of the bill, insert a period at the end of the sentence.

(4) In section 118 of the bill, strike “(a)” after “amended—” and insert in lieu thereof “(1)”.

(5) In section 118 of the bill, strike “(b)” and insert in lieu thereof “(2)”.

(6) In section 118 of the bill, strike “(c)” and insert in lieu thereof “(3)”.

(7) In section 118 of the bill, insert “(a)” after “Sec. 118.”.

(8) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the comma after the phrase “banks and private dealers” the first time it appears.

(9) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the words “the Small Business Act” and insert in lieu thereof “this Act”.

(10) In section 5(b)(12) of the Small Business Act as proposed to be added by section 118 of the bill, strike the period at the end of the last sentence and insert in lieu thereof “; and”.

(11) In section 118, add a new subsection as follows:

“(b) Section 4(c)(1) of the Small Business Act is amended by inserting ‘5(b)(12),’ ‘between sections’ and ‘7(a)’ ”.

(12) In section 21(a)(1) of the Small Business Act proposed to be added by section 201 of the bill, strike the words “community colleges or junior colleges” and insert in lieu thereof “community college or junior college”.

Agreed to October 12, 1978.

CORRECTIONS OF ENROLLED BILL S. 555

Oct. 12, 1978
[S. Con. Res. 112]

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 555) to establish certain Federal

Ante, p. 1824.

agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 101(c)—

(A) strike out "presently" and insert after "legislative branch" the following: "upon assuming such position"; and

(B) strike out "102(a)" and insert in lieu thereof "102(b)".

(2) In section 101(e) insert a comma after "Office of the Attending Physician".

(3) In section 101(f)—

(A) strike out "Senate Committee" and insert in lieu thereof "committee of the Senate", and

(B) strike out "House Committee" and insert in lieu thereof "committee of the House of Representatives".

(4) In section 102(a)(1)(B)—

(A) insert a comma after "capital gains"; and

(B) strike out the dash and insert in lieu thereof a colon.

(5) In section 102(a)(2)(B) strike out "and unless" and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(6) In section 102(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(7) In section 102(a)(4)(B) insert a comma after "furniture".

(8) In section 102(a)(5) insert a comma after "purchase, sale".

(9) In section 102(a)(6) strike out "and" before "any educational" and insert in lieu thereof "or".

(10) In section 102(b), insert "of subsection (a)" after "paragraph (1)".

(11) In section 102(e)(1), strike out "of his dependent children" and insert in lieu thereof "dependent child".

(12) In section 102(e)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

"(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,".

(C) strike out "or his dependents" and insert in lieu thereof "or any dependent child"; and

(D) strike out "section 102(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(13) in section 102(e)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(14) In section 102(e)(3)(A)(iii) strike out "(as defined in section 107(2))".

(15) In section 102(e)(3)(C)—

(A) in clause (v) strike out "section 102(a)(1)(B) of this title" and insert in lieu thereof "subsection (a)(1)(B) of this section"; and

(B) in clause (vi)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(16) In section 102(e)(3) strike out subparagraph (D) and insert in lieu thereof the following:

"(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. For purposes of this subsection 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; 'broker' has the meaning set forth in section 78 of title 15, United States Code; and 'supervising ethics office' means the designated committee of the House of Representatives for those who file their reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.".

(17) In section 102(e)(4), strike out "28" and insert in lieu thereof "18".

(18) In section 102(e)(5) (A)(ii) and (B) strike out "section 102(c)(1)" each place it appears and insert in lieu thereof "subsection (c)(1) of this section".

(19) In section 102(e)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (c)".

(20) In section 102(e)(6)(A), in clauses (i) and (iii) insert "paragraph (3) of" before "this subsection".

(21) In section 102(e)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(22) In section 102(e)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(23) In section 103(a) strike out "of" after "Resident Commissioner" and insert in lieu thereof "from".

(24) In section 103(c) strike out ", as amended".

(25) Strike out subsection (f) of section 103 and insert in lieu thereof the following:

"(f) In order to carry out responsibilities under this title—

"(1) the Clerk shall, after consultation with the designated committee of the House of Representatives, and

"(2) the designated committee of the Senate shall develop reporting forms and may promulgate rules and regulations.".

(26) In section 104(a)—

(A) in the first sentence strike out "Within" and insert in lieu thereof "Except as provided in the second sentence of this subsection, within"; and

(B) in the second sentence strike out "within 15 days of" and insert in lieu thereof "within fifteen calendar days after".

(27) In section 104(b)—

(A) in the first sentence strike out "Within" and insert in lieu thereof "Except as provided in the second sentence of this subsection, within"; and

(B) by inserting immediately after the first sentence the following new sentence: "With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year.".

(28) In section 105(a), strike out "Committee" each place it appears and insert in lieu thereof "committee".

(29) In section 105(b)—

(A) strike out "Act" each place it appears and insert in lieu thereof "title"; and

(B) in the second sentence strike out "paragraph" and insert in lieu thereof "subsection".

(30) In section 107—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (3)(C) strike out the comma after "State", strike out "entermtainment" and insert in lieu thereof "entertainment", strike out the colon and "or" after "subdivisions thereof", and strike out the semicolon after "country" and insert in lieu thereof a comma;

(C) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign Act of 1971;";

(D) in paragraph (9) strike out ", as amended"; and

(E) in paragraph (16) strike out " 'or the Senate' " and insert after " 'Representatives' " the following: "and 'designated committee of the Senate' ".

(31) In section 201(c) insert "in a calendar year" after "becoming a candidate".

(32) In section 201(e)—

(A) strike out "as termination of employment in such position, file a report"; and

(B) insert "(a)" immediately after "202".

(33) In section 202(a)(1)(B) strike out the dash and insert in lieu thereof a colon.

(34) In section 202(a)(2)(B) strike out "and unless," and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(35) In section 202(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(36) In section 202(a)(4)(B) insert a comma after "furniture" and insert a comma after "appliances".

(37) In section 202(a)(5) insert a comma after "purchase, sale".

(38) In section 202(a)(6)(A)—

(A) strike out "and" before "any educational" and insert in lieu thereof "or"; and

(B) strike out "This paragraph" and insert in lieu thereof "This subparagraph".

(39) In section 202(a)(6)(B) strike out "(1)" and "(2)" and insert in lieu thereof "(i)" and "(ii)", respectively.

(40) In section 202(b), strike out "title" and insert "of subsection (a)" after "paragraph (1)".

(41) In section 202(c) strike out "of this title".

(42) In section 202(d)(2) in the first sentence strike out "(d)" immediately before the period.

(43) In section 202(f)(1)—

(A) insert a comma after "(b)"; and

(B) strike out "of his dependent children" and insert in lieu thereof "dependent child".

(44) In section 202(f)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

"(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,".

(C) strike out "or his spouse, or his dependent child" and insert in lieu thereof ", his spouse, or any dependent child"; and

(D) strike out "section 202(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(45) In section 202(f)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(46) In section 202(f)(3)(C)(vi)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(47) In section 202(f)(3) strike out subparagraph (D) and insert in lieu thereof the following:

"(D) The proposed trust instrument and the proposed trustee in approved by the reporting individual's supervising ethics office.".

For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; 'broker' has the meaning set forth in section 78 of title 15, United States Code; and 'supervising ethics office' means the Office of Government Ethics.".

(48) In section 202(f)(4)(A) strike out "28" and insert in lieu thereof "18".

(49) In section 202(f)(4)(B)—

(A) strike out "A" after "subparagraph" and insert in lieu thereof "(A)".

(B) insert "child" after "dependent";

(C) in subparagraph (B)(i)(V) strike out "act" and insert in lieu thereof "Act" and strike out "requirement" and insert in lieu thereof "requirements"; and

(D) in subparagraph (B)(ii) strike out "take advantage of" and insert in lieu thereof "comply with".

(50) In section 202(f)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (d)".

(51) In section 202(f)(6)(A), in clauses (i) and (iii) insert "paragraph (3) of" before "this subsection".

(52) In section 202(f)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(53) In section 202(f)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(54) In section 204(b)—

(A) strike out "and the Director of the Office of Government Ethics" and insert in lieu thereof "or the Director of the Office of Government Ethics, as the case may be,"; and

(B) strike out "they have" and insert in lieu thereof "he has".

(55) In section 205(a) insert "by the" before "Secretary concerned".

(56) In section 205(b) strike out the first sentence and insert in lieu thereof the following: "Each agency shall, within fifteen

days after any report is received by the agency under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy.".

(57) In section 205(d) in the first sentence strike out "part" and insert in lieu thereof "title".

(58) In section 206(b)(2)(B) insert immediately before the period "with such laws and regulations".

(59) In section 206(b)(3) in subparagraphs (B) and (C) strike out the period and insert in lieu thereof a comma.

(60) In section 207(a), strike out "Section 202 (a), (b), and (d)" and insert in lieu thereof "Subsections (a), (b), and (d) of section 205".

(61) In section 209—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign Act of 1979;".

(62) Insert the following after section 209 of the bill:

"OUTSIDE EARNED INCOME

"SEC. 210. Except where the employee's agency or department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of grade 16 or above and who occupy nonjudicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary.".

(63) In the section immediately following the heading "EFFECTIVE DATE" in title II of the bill, strike out "SEC. 210." and insert in lieu thereof "SEC. 211.".

(64) In section 301(b) strike out "Committee" and insert in lieu thereof "committee".

(65) In section 301(d) strike out "section 301(c)" and insert in lieu thereof "subsection (c) of this section".

(66) In section 301(e) strike out "by" after "established" and insert in lieu thereof "pursuant".

(67) In section 302(a)(1)(A), insert "(other than income referred to in subparagraph (B))" immediately after "income". In section 302(a)(1)(B) of the bill strike out "(other than income referred to in subparagraph (B))".

(68) In section 302(a)(2)(B) strike out "and unless," and insert in lieu thereof a period and the following: "A gift need not be so aggregated if".

(69) In section 302(a)(4), in the first sentence strike out "exceeds" before "$10,000 at any time" and insert in lieu thereof "exceed".

(70) In section 302(a)(4)(B) insert a comma after "furniture" and insert a comma after "appliances".

(71) In section 302(a)(6) strike out "and" before "any educational" and insert in lieu thereof "or".

(72) In section 302(b), insert "of subsection (a)" after "paragraph (1)".

(73) In section 302(d)(2) in the first sentence strike out "(d)" immediately before the period.

(74) In section 302(f)(1)—

(A) insert "of this section" after "subsections (a), (b), and (c)"; and

(B) strike out "of his dependent children" and insert in lieu thereof "dependent child".

(75) In section 302(f)(2)—

(A) in subparagraph (B)(i), strike out "of his dependents," and insert in lieu thereof "dependent child, and";

(B) strike out clause (ii) of subparagraph (B) and insert in lieu thereof the following:

"(ii) the holding or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,".

(C) strike out "or his dependent child" and insert in lieu thereof "or any dependent child"; and

(D) strike out "section 302(a)(1)(B)" and insert in lieu thereof "subsection (a)(1)(B) of this section".

(76) In section 302(f)(3), strike out "of his dependents" and insert in lieu thereof "dependent child".

(77) In section 302(f)(3)(C)(vi)(II) strike out "and" after "holding an asset" and insert in lieu thereof a comma.

(78) In section 302(f)(3) strike out subparagraph (D) and insert in lieu thereof the following:

"(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. For purposes of this subsection 'interested party' means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; 'broker' has the meaning set forth in section 78 of title 15, United States Code; and 'supervising ethics office' means the Judicial Ethics Committee.".

(79) In section 302(f)(5)(C)(ii)—

(A) insert "with such office" after "file";

(B) strike out "with his supervising ethics office"; and

(C) insert "of this section" after "subsection (d)".

(80) In section 302(f)(6)(A), in clauses (i) and (iii) insert "paragraph (3) of" before "this subsection".

(81) In section 302(f)(6)(B), insert "of this subsection" after "paragraph (3)(C)".

(82) In section 302(f)(7)(C), strike out the comma after "interested party" and insert "of this subsection" after "paragraph (5)".

(83) In section 303(b) strike out the comma after "he sits".

(84) In section 305(b) strike out the first sentence and insert in lieu thereof the following: "The Committee shall, within fifteen days after any report is received by the Committee under this title, permit inspection by or furnish a copy of such report to any person requesting such inspection or copy.".

(85) In section 307(b) insert a comma after "disclosure".

(86) In section 308—

(A) in paragraph (2) strike out the period at the end thereof and insert in lieu thereof a semicolon;

(B) in paragraph (4) strike out "the same meaning as the term has when used in the Federal Election Campaign Act of 1971." and insert in lieu thereof "the meaning given such term in the Federal Election Campaign Act of 1971;"; and

(C) in paragraph (9) insert "United States" before "court of appeals" and "district courts, including".

(87) In section 402(b)(3) strike out "such statements" and insert in lieu thereof "financial statements filed pursuant to such title".

(88) In section 402(d) immediately before the period strike out "Act" and insert in lieu thereof "title".

(89) In section 405(1) insert "and" after the semicolon.

(90) In the heading for section 207 of title 18 United States Code, as amended by section 501 of the bill, strike out the colon and insert in lieu thereof a semicolon.

(91) In section 207(a) of title 18, United States Code, as amended by section 501 of the bill—

(A) insert a comma immediately after "otherwise represents";

(B) insert a comma immediately after "(except the United States)"; and

(C) strike out "written or oral communication" and insert in lieu thereof "oral or written communication".

(92) In section 207(b) of title 18, United States Code, as amended by section 501 of the bill—

(A) in clause (ii), insert "and" immediately after "having been so employed"; and

(B) in paragraph (3), insert a comma immediately after "such responsibility".

(93) In section 207(c) of title 18, United States Code, as amended by section 501 of the bill—

(A) strike out "government" and insert in lieu thereof "Government";

(B) strike out "employed in the Executive Branch" and insert in lieu thereof "so employed and";

(C) insert a comma immediately after "knowingly acts as agent or attorney for";

(D) insert a comma immediately after "or otherwise represents";

(E) insert a comma immediately after "anyone other than the United States"; and

(F) strike out "Shall" and insert in lieu thereof "shall".

(94) In section 207(d) of title 18, United States Code, as amended by section 501 of the bill—

(A) in paragraph (1), strike out "or" the fourth time it appears;

(B) in paragraph (2), strike out "or" the fourth time it appears; and

(C) in paragraph (2), insert a comma immediately after "supervisory responsibility".

(95) In section 207(e) of title 18, United States Code, as amended by section 501 of the bill, insert a comma immediately after "agencies".

(96) In section 207(f) of title 18, United States Code, as amended by section 501 of the bill, insert a comma immediately after "technical discipline".

(97) In section 207(g) of title 18, United States Code, as amended by section 501 of the bill—

(A) strike out "in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee" and insert in lieu thereof "in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee"; and

(B) insert "for" immediately after "imprisoned".

(98) In section 207(h) of title 18, United States Code, as amended by section 501 of the bill, insert a comma immediately after "oath".

(99) In section 207(i) of title 18, United States Code, as amended by section 501 of the bill, strike out "the former officer" the first time it appears therein and insert in lieu thereof "a former officer".

(100) In section 502 of the bill, strike out "pursuant subsection (d) of section 207, title 18, United States Code" and insert in lieu thereof "pursuant to section 207(d) of title 18, United States Code".

(101) In section 591(b)(3) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate provided for" and insert in lieu thereof "the annual rate of basic pay provided for".

(102) In section 591(b)(4) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate provided for" and insert in lieu thereof "the annual rate of basic pay provided for".

(103) In section 591(b)(4) of title 28, United States Code, as added by section 601 of the bill, strike out each of the semicolons with the exception of the semicolon at the end thereof and insert in lieu thereof a comma.

(104) In section 592(c)(2) of title 28, United States Code, as added by section 601 of the bill, strike out the semicolon and insert in lieu thereof a comma.

(105) In section 594(a)(7) of title 28, United States Code, as added by section 601 of the bill, strike out the comma immediately following "6005".

(106) In section 594(a)(8) of title 28, United States Code, as added by section 601 of the bill, strike out "section 6103 of title 26" and insert in lieu thereof "section 6103 of the Internal Revenue Code of 1954".

(107) In section 594(b) of title 28, United States Code, as added by section 601 of the bill, strike out "the rate of pay" and insert in lieu thereof "the annual rate of basic pay".

(108) In section 594(c) of title 28, United States Code, as added by section 601 of the bill, insert a comma immediately after "duties" the second time it appears.

(109) In section 595(a) of title 28, United States Code, as added by section 601 of the bill—

(A) strike out the comma immediately after "Congress"; and

(B) strike out "that" and insert in lieu thereof "such".

(110) In section 595(b)(2) of title 28, United States Code, as added by section 601 of the bill, strike out "prosecutor" the third time it appears and insert in lieu thereof "prosecuted".

(111) In section 595(e) of title 28, United States Code, as added by section 601 of the bill, strike out "a judiciary committee" and insert in lieu thereof "the Committee on the Judiciary".

(112) In section 596(a)(2) of title 28, United States Code, as

added by section 601 of the bill strike out "judiciary committees" and insert in lieu thereof "Committees on the Judiciary".

(113) In section 596(a)(3) of title 28, United States Code, as added by section 601 of the bill, strike out the opening quotation marks immediately before "judicial review".

(114) In section 529 of title 28, United States Code, as added by section 601 of the bill, strike out "public Integrity Section" and insert in lieu thereof "Public Integrity Section".

(115) In section 604 of the bill, strike out the comma immediately after "title 28" the first time it appears.

(116) In section 701(a)(4) of the bill—

(A) strike out "rate of pay for level III" and insert in lieu thereof "rate of basic pay for level III"; and

(B) strike out "rate of pay for level IV" and insert in lieu thereof "rate of basic pay for level IV".

(117) In section 701(b)(1) strike out "rate of pay for level V" and insert in lieu thereof "rate of basic pay for level V".

(118) In section 702(b)(3) of the bill, strike out "Judiciary Committee" and insert in lieu thereof "Committee on the Judiciary".

(119) In section 703(b) of the bill, strike out "section Joint Leadership Group or" and insert in lieu thereof "section 705 only when directed to do so".

(120) In section 703(d)(2) of the bill, insert "an" immediately before "affirmative vote".

(121) In section 704(a)(1) of the bill—

(A) insert a comma immediately after "political subdivision thereof";

(B) insert a comma immediately after "taken by"; and

(C) insert a comma immediately after "officer" the third time it appears.

(122) In section 704(a)(2) insert a comma immediately after "officer" the second time it appears.

(123) In section 705(a) of the bill, strike out "title 23 of the United States Code" and insert in lieu thereof "title 28 of the United States Code".

(124) In section 705(b) of the bill, strike out "with in" and insert in lieu thereof "within".

(125) In section 705 of the bill, strike out—

"(e) The extent to which a report filed pursuant to subsection (c)(2) is in compliance with such subsection shall not be reviewable in any court of law."

and insert in lieu thereof

"(e) A report filed pursuant to subsection (c)(2) shall not be reviewable in any court of law to the extent such report is in compliance with such subsection.".

(126) In section 1364(b) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill, strike out "an entity or person refusing or failing, or threatening to refuse or not to comply, with a subpena" and insert in lieu thereof "an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpena".

(127) In section 1364(b) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill—

(A) strike out "refusing or failing, or threatening to refuse or not to comply, resides" and insert in lieu thereof "refusing, or failing to comply, or threatening to refuse or not to comply, resides";

(B) strike out "an subpenas for witnesses who are required to attend" and insert in lieu thereof "and subpenas for witnesses who are required to attend".

(128) In section 1364(e) of title 28, United States Code, as added by subsection (f)(1) of section 705 of the bill, insert a comma immediately after "section".

(129) In section 705 of the bill, strike out—

"(e) Nothing in this section shall limit the discretion of—"

and insert in lieu thereof

"(g) Nothing in this section shall limit the discretion of—".

(130) In section 707 of the bill, strike out "district court to issue and order" and insert in lieu thereof "district court to issue an order".

(131) In section 708(a)(4) of the bill, insert a comma immediately after "officer" the second time it appears.

(132) In section 708(a)(5) of the bill, insert a comma immediately after "Parliamentarian of the Senate".

(133) In section 708(b) of the bill—

(A) strike out "Memoranda" and insert in lieu thereof "memoranda"; and

(B) strike out "information or a confidential" and insert in lieu thereof "information of a confidential".

(134) In section 709(7) of the bill, insert "the" immediately before "Congress".

(135) In the section that immediately follows the heading "CONFLICT OR INCONSISTENCY" strike out "SEC. 10." and insert in lieu thereof "SEC. 710.".

(136) In subsection (b) of the section that immediately follows the heading "CONFLICT OR INCONSISTENCY" strike out "recipt" and insert in lieu thereof "receipt".

(137) In section 711(a)(2) of the bill, insert a comma immediately after "section 703(a)".

(138) In section 711(b) of the bill, insert "and" immediately before "special committees".

(139) In section 712(b) of the bill, insert "section" immediately before "706".

(140) In section 714(d) of the bill, strike out the comma immediately after "March 3, 1875".

(141) In section 715 of the bill, insert "of" immediately after "If any provision of any part of this title or".

(142) In section 715 of the bill, insert "of" immediately after "the provisions of other parts and".

(143) In section 104(b) of the bill strike out "Secretray" and insert in lieu thereof "Secretary".

(144) In section 107(15) strike out "means and individual" and insert in lieu thereof "means an individual".

(145) In section 201(f)(3) of the bill strike out "rate of basis" and insert in lieu thereof "rate of basic".

(146) In section 202(a) of the bill strike out "with respect the" and insert in lieu thereof "with respect to the".

(147) In section 209(2) of the bill strike out "grandfatehr" and insert in lieu thereof "grandfather".

(148) In section 107(8)(A) of the bill, insert "the District of Columbia, or any State of political subdivision thereof" immediately after "United States Government".

Agreed to October 12, 1978.

Oct. 13, 1978
[H. Con. Res. 742]

PRAYERS OF REV. EDWARD LATCH, HOUSE CHAPLAIN

Printing as House document; additional copies.

Resolved by the House of Representatives (the Senate concurring), **That the prayers offered by the Chaplain, the Reverend Edward Gardiner Latch, D.D., L.H.D., at the opening of the daily sessions of the House of Representatives of the United States during the Ninety-fourth and Ninety-fifth Congresses, be printed, with appropriate illustration, as a House document, and that three thousand additional copies be printed and bound for the use of the House of Representatives, to be distributed by the Chaplain of the House of Representatives.**

Passed October 13, 1978.

Oct. 15, 1978
[S. Con. Res. 114]

CORRECTIONS OF ENROLLED BILL S. 2570

Ante, p. 1909.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, is hereby authorized and directed to make the following corrections:

(1) In section 3(7)(B)(ii) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "but is within 6 months of no longer being eligible for such assistance".

(2) In section 3(11) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "(A)".

(3) In section 3(27)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "below" and insert "not in excess of".

(4) In section 103(a)(21) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the semicolon at the end thereof and insert a period.

(5) In section 103(b)(9) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "and" at the end thereof.

(6) In section 103(b)(15)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "each of the preceding two years" and insert "in the preceding year".

(7) In section 104(a)(2)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "designated" and insert "appropriate".

(8) In section 104 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate the second subsection (c) as subsection (e).

(9) In section 105(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "308" and insert "307".

(10) In section 106(i)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "Act" and insert "subsection".

(11) In section 122(d) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "not" before "subsidized".

(12) In section 122(h)(3) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "subparagraph" and insert "paragraph".

(13) In section 122(i)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "that" in the second sentence.

(14) In section 123(c)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(15) In section 123(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(1)" and insert in lieu thereof "3".

(16) In section 124(a)(3) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "part A of" before "title IV".

(17) In section 127(a) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "Act" before "Amendments".

(18) In section 127(e)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(c)" and insert "126(d)".

(19) In section 133(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "128" and insert "127".

(20) In section 202(a)(1)(A)(i) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the period at the end thereof and insert a semicolon.

(21) In section 204(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(22) In section 212(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "and section 121(i)" after "121(c)(2)".

(23) In section 233(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "pursuant to section 232" and insert "for this part".

(24) In section 233 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate subsections (e) and (f) as subsections (d) and (e), respectively.

(25) In section 301(b)(1)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "section" and insert "subsection".

(26) In sections 308(e) and 308(g) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "forty" and insert "55".

(27) In section 311(f) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "132(a)(7) of the Vocational Educational Amendments of 1976" and insert "section 134(a)(7) of the Vocational Education Act of 1963".

(28) In section 433(a)(4) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "subpart" and insert "part".

(29) In section 503(5) of the Comprehensive Employment and

Training Act, as proposed by section 2 of the bill, strike out "(i)" and insert "(A)".

(30) In section 602(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "proposed appropriation" and insert "estimated allocation".

(31) In section 604(a)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "pursuant to section 602" and insert "for this title".

Agreed to October 15, 1978.

Oct. 15, 1978
[S. Con. Res. 115]

AUTHORIZATION TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the sine die adjournment of the two Houses, the Speaker of the House of Representatives and the President of the Senate, and the President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

Agreed to October 15, 1978.

Oct. 15, 1978
[H. Con. Res. 749]

Vetoed.

CORRECTIONS OF ENROLLED BILL H.R. 6536

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, the Clerk of the House of Representatives shall make the following corrections:

(1) In the item relating to section 126 in the table of contents of the bill, insert "the" before "Funds".

(2) In the item relating to section 145 in the table of contents of the bill, strike out "Contribution for Excessive Costs of Police Officers and Fire Fighters' Disability Retirement" and insert in lieu thereof "contribution for excessive costs of police officers and fire fighters' disability retirement".

(3) In the item relating to section 181 in the table of contents of the bill, strike out "responsibility" and insert in lieu thereof "responsibilities".

(4) In the item relating to section 186 in the table of contents of the bill, strike out "of" and insert in lieu thereof "on".

(5) In the item relating to section 206 in the table of contents of the bill, strike out "Survivor's" and insert in lieu thereof "Survivors'".

(6) In section 101(a) of the bill, insert a comma after "a result".

(7) In section 101(b)(3) of the bill, strike out "and" the first place it appears and insert in lieu thereof a comma.

(8) In section 102(7)(A) of the bill, strike out the fourth comma.

(9) In section 102(7)(B) of the bill, strike out "title II" and insert in lieu thereof "title 11".

(10) In section 102(19) of the bill, strike out the third comma.

(11) In section 122(a)(1) of the bill, strike out "Firemens'" and insert in lieu thereof "Firemen's".

(12) In section 123(b)(1)(C) of the bill, insert a comma after "31-725(b)(1)(ii))".

(13) In section 123(b)(1)(D) of the bill, insert a comma after "31-729(a))".

(14) In section 123(b)(1)(F) of the bill, insert a comma after "31-737)".

(15) In section 142(a)(1)(A) of the bill, strike out "were" and insert in lieu thereof ", if" and insert a comma after "retirement program".

(16) In section 142(b)(1)(D) of the bill, strike out "10 years" and insert in lieu thereof "ten fiscal years".

(17) In section 144(e)(1) of the bill, strike out "or" the first place it appears and insert in lieu thereof "and".

(18) In section 145(a)(1) of the bill, strike out "Police" the first place it appears and insert in lieu thereof "Policemen".

(19) In section 145(a)(2) of the bill, strike out "Police" and insert in lieu thereof "the Policemen".

(20) In section 145(b)(2) of the bill, strike out "calculation" and insert in lieu thereof "statement".

(21) In section 145(c) of the bill, strike out "lump sum" and insert in lieu thereof "lump-sum".

(22) In section 164(c) of the bill, strike out "the retirement program" and insert in lieu thereof "a retirement program".

(23) In the section heading of section 165 of the bill, strike out "PARTICIPANT's" and insert in lieu thereof "PARTICIPANTS'".

(24) In section 181(f)(3) of the bill, strike out "and" after "such Fund".

(25) In section 187(a)(3)(B)(i) of the bill, strike out "violations" and insert in lieu thereof "violation".

(26) In section 187(b) of the bill, strike out "the amount" and insert in lieu thereof "an amount".

(27) In subsection (g)(5)(B)(iii) of the Policemen and Firemen's Retirement and Disability Act, as proposed by section 204(b)(2) of the bill, insert "shall be" after "his annuity".

(28) In subsection (j)(3) of the Policemen and Firemen's Retirement and Disability Act, as proposed by section 205(a)(2)(B) of the bill, strike out "(C)(i)" and insert in lieu thereof "(E)(i)".

(29) In the section heading of section 206 of the bill, strike out "SURVIVOR's" and insert in lieu thereof "SURVIVORS'".

(30) In the section heading of section 252 of the bill, strike out "JUDGE's" and insert in lieu thereof "JUDGES'".

(31) In section 253(a)(1) of the bill, strike out "(1) in the" and insert in lieu thereof "(A) in the", strike out "(2)" and insert in lieu thereof "(B)" strike out "(A)" and insert in lieu thereof "(i)", strike out "(i)" and insert in lieu thereof "(I)", strike out "(ii)" and insert in lieu thereof "(II)", and strike out "(B)" and insert in lieu thereof "(ii)".

(32) In section 253(b) of the bill, strike out "(A)" and "(B)" and insert in lieu thereof "(1)" and "(2)", respectively.

(33) In section 254(a) of the bill, insert "title 11 of" after "chapter 15 of" and insert a comma after "(9)(C)", after "(10)(C)", and after "11-1569(c)".

(34) In sections 206(b), 207(b), 208(b), 209(d), 253(c), and 254(c) of the bill, strike out "90" each place it appears and insert in lieu thereof "ninety".

(35) Amend the title so as to read "An Act to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits.".

Passed October 15, 1978.

Oct. 15, 1978
[H. Con. Res. 754]

CORRECTIONS OF ENROLLED BILL H.R. 8533

Ante, p. 1693.

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8533), to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, the Clerk of the House of Representatives shall make the following corrections:

(1) At the end of the bill, insert the following new title:

"TITLE III—PROCEEDS FROM BINGO GAMES

"Sec. 301. (a) Section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"'(f) Certain Bingo Games.—

"'(1) In general.—The term "unrelated trade or business" does not include any trade or business which consists of conducting bingo games.

"'(2) Bingo game defined.—For purposes of paragraph (1), the term "bingo game" means any game of bingo—

"'(A) of a type in which usually—

"'(i) the wagers are placed,

"'(ii) the winners are determined, and

"'(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

"'(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

"'(C) the conducting of which does not violate any State or local law.'

"(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

"Sec. 302. (a) Paragraph (3) of section 527(c) of the Internal Revenue Code of 1954 (defining exempt function income) is amended by striking out 'or' at the end of subparagraph (B), by adding 'or' at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"'(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),'.

"(b)(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974, except that notwithstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill by an organization described in section 527(e)(1) of the Internal Revenue Code of 1954 in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301 (e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431(f)) in connection with any election held before January 1, 1979.

"(2) Such amounts as described in (1) above shall not be considered as security or collateral for any loan by any State or National bank or any other person or organization."

(2) Amend the title so as to read as follows: "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes."

Passed October 15, 1978.

CORRECTION OF ENROLLED BILL S. 1487

Oct. 15, 1978
[H. Con. Res. 755]

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, the Secretary of the Senate shall make the following correction:

Ante, p. 2463.

In section 2343(a) of title 18, United States Code, as added by the first section of the bill, strike out "To the extent that such information is contained in existing business records, no additional records shall be required by the Secretary." and insert in lieu thereof "Such information shall be contained on business records kept in the normal course of business.".

Passed October 15, 1978.

ADJOURNMENT SINE DIE

Oct. 15, 1978
[H. Con. Res. 760]

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Sunday, October 15, 1978, and that when they adjourn on said day, they stand adjourned sine die.

Passed October 15, 1978.

CORRECTIONS OF ENROLLED BILL H.R. 13511

Oct. 15, 1978
[H. Con. Res. 761]

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 13511, to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

Ante, p. 2763.

(1) After section 333, insert the following:

"SEC. 334. ADVANCE REFUNDING OF INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN PUBLIC WORKS.

"(a) In General.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"'(7) Advance refunding of qualified public facilities.—

"'(A) In general.—Paragraph (1) shall not apply to a refunding issue if substantially all the proceeds of the refunded issue were used to provide a qualified public facility.

"'(B) Qualified public facility defined.—For purposes of subparagraph (A), the term "qualified public facility" means facilities described in subparagraph (C) or (D) of paragraph (4) which are generally available to the general public.'

"(b) Obligation May Not Be Held by Substantial User.—Paragraph (8) of section 103(b) (as redesignated by subsection (a)) is amended by striking out 'and (6)' and inserting in lieu thereof '(6), and (7)'.

"(c) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act."

(2) by inserting in the table of contents after the item relating to section 333 the following new item:

"Sec. 334. Advance refunding of industrial development bonds for qualified public facilities."

Passed October 15, 1978.

PROCLAMATIONS

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Proclamation 4543 • **December 27, 1977**

Modifying Proclamation No. 3279, as Amended, Relating To Imports of Petroleum and Petroleum Products, and Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees

By the President of the United States of America

A Proclamation

It is necessary that the United States complete the establishment of a Strategic Petroleum Reserve as quickly as possible.

The imposition of license fees on imports of crude oil and products for such Reserve would not carry out the purposes of Proclamation No. 3279, as amended, and could create administrative and other problems with respect to the expeditious completion of the Reserve. 19 USC 1862 note.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), do hereby proclaim that, effective as of October 1, 1977, Proclamation No. 3279, as amended, is further amended as follows:

Clauses (i) and (ii) of subparagraph (1) of paragraph (a) of Section 3 are revised to read as follows:

"(i) with respect to imports of crude oil (other than that imported by the Department of Energy, or by another person or agency of the Federal Government acting on behalf of the Department, for the Strategic Petroleum Reserve Program) and natural gas products over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be $0.21 per barrel;

(ii) with respect to imports of motor gasoline, unfinished oils, and all other finished products (except ethane, propane, butanes, asphalt and finished products imported by the Department of Energy, or another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program), over and above the levels of imports established in Section 2 of this Proclamation, such fees shall be $0.63 per barrel;".

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of December, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4544 • **January 11, 1978**

Drug Abuse Prevention Week, 1978

By the President of the United States of America

A Proclamation

History teaches us that almost every discovery or invention designed to make our lives a little better can, in the wrong hands, become an instrument of tragedy and suffering. Nothing better illustrates this than the problem of drug abuse in America. When used properly, today's drugs can work miracles that were unimaginable only a short time ago. When they fall into the hands of the immature, the careless, the ignorant, or the despairing, their effects can be devastating.

If we are to rid our society of the problem of drug abuse, we must first rid ourselves of the idea that it is confined to a single group. Drug abusers include the busy executive who cannot function without the aid of heavy drinking, the youth who is addicted to heroin, and the victim of disease who grows dependent upon prescribed medication.

Once we understand that the problem does not derive from a single source, we can appreciate the futility of attempting to seek a single solution. Controlling the availability of drugs and seeking better methods of treating the drug abuser are vital, but unless we also identify and reduce the social pressures which encourage drug abuse, our other efforts will achieve little.

Recognizing this we are focusing our efforts on the search for ways to stop drug abuse before it starts. In particular, we are directing our attention to ways of helping young people understand themselves and their surroundings without the artificial support of dangerous drugs. How successful we will be remains to be seen. But each of us needs the courage to face these hard truths, the insight to recognize that this problem affects us all, and the determination to do something about it.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in order to inaugurate the 1978 National Drug Abuse Prevention Campaign, do hereby proclaim the week beginning January 15, 1978, as National Drug Abuse Prevention Week.

I call upon government officials, educators, medical professionals, clergy, business and civic leaders to join together in working to create an America where people are no longer tempted to abuse drugs. I call upon parents to examine the ways they respect or abuse drugs in their homes and to remember that their attitudes are likely to shape the attitudes of their children. Most of all, I ask each American to take the time and trouble to learn about drug abuse prevention, to kindle positive values within our families and communities, and to create opportunities for people of all ages and all backgrounds to come together to share their ideas, skills, and resources.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of January, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4545 • **January 16, 1978**

Death of Hubert H. Humphrey

By the President of the United States of America

A Proclamation

As a special mark of respect to the memory of the Honorable Hubert H. Humphrey, former Vice President of the United States of America and Senator from the State of Minnesota, I, Jimmy Carter, President of the United States of America do hereby proclaim, by virtue of the authority vested in me by a Joint Resolution of the Congress (36 U.S.C. 178), that the period of public tribute and appreciation shall be extended and the flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal government in the District of Columbia, and throughout the United States and its Territories and possessions until, and including January 19, 1978, the day the 95th Congress of the United States reconvenes.

I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

May this period, as Senator Humphrey wished, "be a time to celebrate life and the future" even though we cannot escape the pain and sorrow of his leaving.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4546 • **January 19, 1978**

American Heart Month, 1978

By the President of the United States of America

A Proclamation

Diseases of the heart and blood vessels afflict some thirty million Americans. Each year cardiovascular disorders claim nearly one million lives and cost our economy nearly forty-eight billion dollars in lost wages, lost productivity, and medical expenses.

Since 1948, a concerted national effort has been under way to reduce illness, disability, and death from heart and blood vessel diseases through nationwide programs of biomedical research in the cardiovascular field, training of research workers and clinicians, information and education programs for health professionals and for the general public, and community service activities concerned with prevention, detection, and control of cardiovascular disorders.

These efforts have been spearheaded by the National Heart, Lung, and Blood Institute, a federal agency, and the American Heart Association, a voluntary health organization supported through private contributions. Since 1948, their combined outlay in support of the national battle against cardiovascular diseases has totaled nearly three billion dollars.

During these thirty years, an immense amount of new knowledge about the cardiovascular system and its diseases has been amassed and much of it has found application in better methods of prevention, diagnosis, and treatment. In addition, many Americans have modified their diets, established sensible and regular exercise programs, changed their smoking habits, or have otherwise altered their lifestyles to achieve better cardiovascular health. As a result, mortality rates have declined steadily since 1950 in nearly all major cardiovascular disease categories and the total number of deaths among Americans from these diseases is the lowest it has been since 1965.

But these encouraging results are no excuse for complacency. On the contrary, they show that it is only through sustained dedication and cooperation among public officials, community leaders, private institutions, and the Americans people that we have any chance of controlling this threat to the health of our Nation.

Recognizing the need for all Americans to join forces in the battle against cardiovascular disease, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b) has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of February, 1978, as American Heart Month. I invite the Governors of the States, the appropriate officials of all other areas subject to the jurisdiction of the United States and the American people to join with me in reaffirming our commitment to the search for new way to prevent, detect and control cardiovascular disease in all its forms.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of January, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4547 • **January 20, 1978**

Import Fees on Sugar, Sirups, and Molasses

By the President of the United States of America

A Proclamation

91 Stat. 1775. By Proclamation No. 4538 of November 11, 1977, I imposed import fees on certain sugars, sirups, and molasses. I also requested the United States International Trade Commission to make an immediate investigation with respect to this matter pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and to report its findings and recommendations to me as soon as possible.

The Secretary of Agriculture has since informed me that the fees established by Proclamation No. 4538 are insufficient. He has again advised me that he has reason to believe that sugars, sirups, and molasses, derived from sugar cane or sugar beets, classified under items 155.20 and 155.30, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), hereinafter referred to as "sugars", are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or to materially interfere with the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar beets and sugar cane. The Secretary of Agriculture has reaffirmed his determination that the condition requires emergency treatment.

I agree there is reason for these beliefs and I find and declare that:

(a) Sugars, described below by use and physical description, are being imported, or are practically certain to be imported, into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or reduce substantially the amount of any product processed in the United States from domestic sugar beets or sugar cane;

(b) A condition exists which requires the immediate imposition of the import fees hereinafter set forth, without awaiting the report and recommendations of the United States International Trade Commission.

(c) The imposition of the import fees hereinafter proclaimed is necessary in order that the entry, or withdrawal from warehouse, for consumption of such sugars will not render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar beets and sugar cane, or reduce substantially the amount of products processed in the United States from such domestic sugar beets or sugar cane.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and Statutes of the United States of America, including section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that Part 3 of the Appendix to the TSUS is amended as follows:

1. Headnote 4 is amended to read as follows:

4. Sugar, sirups, and molasses

(a) Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.05, 956.15, and 957.15 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.

(b) "Not to be further refined or improved in quality" as used in item 956.05 means not to be further refined or improved in quality by being subjected substantially to the processes of (1) affination or defecation, (2) clarification, or (3) further purification by absorption or crystallization.

2. Items 956.10, 956.20, 957.10, and 957.20 are deleted.

3. The following new items, in numerical sequence, are added following item 955.06:

Item	*Articles*	*Rates of Duty (Section 22 Fees)*
	Sugars, sirups, and molasses, derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4(a):	
	Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule 1:	
956.05	Not to be further refined or improved in quality	3.22¢ per lb., but not in excess of 50% ad val.
956.15	To be further refined or improved in quality	2.70¢ per lb., but not in excess of 50% ad val.
957.15	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule 1	3.22¢ per lb. of total sugars, but not in excess of 50% ad val.

With the following exceptions, this proclamation applies to articles entered, or withdrawn from warehouse, for consumption after 12:01 a.m. (Eastern Standard Time) on the day following its issuance. One exception shall be for the sugars of Malawian origin which entered the United States before February 15, 1978, pursuant to contracts for delivery to the United States entered into before November 11, 1977. Further, if it is established to the satisfaction of the Commissioner of Customs that articles subject to proclamations 4538 and 4539 exported to the United States before November 11, 1977, or imported to fulfill forward contracts for delivery to the United States entered into before November 11, 1977, could have been, but were not, entered for consumption on or before January 1, 1978, as a result of the delay in transportation to a point within the limits of a Customs port of entry of the United States because of windstorm, fog, or similar stress of weather, the provisions of proclamations 4538 and 4539 shall not apply to the articles even though they are entered for consumption after January 1, 1978 nor shall the provisions of this proclamation be applicable to them. The proclamation shall continue to apply until I have acted on the Report of the United States International Trade Commission.

91 Stat. 1775, 1777.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

EDITORIAL NOTE: The President's statement of January 20, 1978, on signing Proclamation 4547, is printed in the Weekly Compilation of Presidential Documents (vol. 14, p. 145).

Proclamation 4548 • **January 31, 1978**

National Defense Transportation Day and National Transportation Week, 1978

By the President of the United States of America

A Proclamation

The United States is a Nation dependent on mobility. Transportation helps maintain our prosperity, ensure our national defense, and bind us together as a people. An efficient transportation network is important to maintain our quality of life and help our Nation conserve precious petroleum.

Recognizing the fundamental relationship between transportation and our Nation's welfare, the Congress has requested the President to proclaim annually the third Friday in May as National Defense Transportation Day and the week in which that day falls as National Transportation Week (71 Stat. 30, 36 U.S.C. 160; 76 Stat. 69, 36 U.S.C. 166).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Friday, May 19, 1978, as National Defense Transportation Day, and the week beginning May 14, 1978, as National Transportation Week.

I urge the Governors of our States and other appropriate officials, organizations concerned with transportation, and the people of the United States to join with the Department of Transportation in observing this day and week.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of January, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4549 • **February 1, 1978**

Save Your Vision Week, 1978

By the President of the United States of America

A Proclamation

Good vision is too important to be left to chance. Most of what we learn and do depends upon how well we can see. As one of our most valuable possessions, sight deserves our care and protection.

By learning the early warning signs of eye disease, practicing eye safety, and having regular eye examinations, we can prevent some of the most common forms of visual impairment and blindness. Many eye disorders can be corrected or alleviated with prompt professional care. By wearing protective eyeglasses or safety goggles in potentially hazardous situations on the job or at home, we can prevent many eye injuries. Regular eye examinations may also detect early signs of other serious health problems, such as diabetes or high blood pressure, long before symptoms appear.

To increase awareness of the importance of good vision and of ways to protect it, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week of March of each year as Save Your Vision Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning March 5, 1978, as Save Your Vision Week. I urge all Americans to observe this period by learning what they can do to take care of their eyes and by practicing a few simple precautions to protect their sight. I invite the vision care professionals, the communications media, educators, and all public and private organizations which support sight conservation to participate in activities which will inform all Americans about the importance of eye care and encourage them to take steps to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4550 **February 6, 1978**

National Poison Prevention Week, 1978

By the President of the United States of America

A Proclamation

When stored safely and used properly, products such as medicines, polishes, solvents, and pesticides can make our lives easier.

But many of these products contain toxic ingredients which, when used or stored carelessly, can find their way into the hands of our children. Although special packaging has reduced dramatically the number of incidents each year, household substances still poison many children. Therefore, the theme of this year's National Poison Prevention Week is: "Children Act Fast—So Do Poisons."

To remind all Americans of the dangers of poisonings and to encourage all of us to eliminate this problem, the Congress, by joint resolution of September 26, 1961 (75 Stat. 681, 36 U.S.C. 165) has requested the President to issue annually a proclamation designating the third week in March as National Poison Prevention Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning March 19, 1978, as National Poison Prevention Week. I call upon the people of the United States and all agencies and organizations concerned with the prevention of poisoning and the welfare of our Nation's youngsters to join in promoting increased awareness of, and better protection against, the dangers of poisoning.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of

February, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4551 • **February 7, 1978**

Red Cross Month, 1978

By the President of the United States of America

A Proclamation

The American Red Cross is serving the needs of the American people now, as it has served them for nearly a century. Although its programs and services have grown in scope as well as in size over the years, the relief of human suffering remains its fundamental purpose. Throughout its proud history, its spirit of volunteerism has been the source of its strength.

It is the Red Cross volunteer—our neighbor—who helps ease the suffering of disaster victims; who teaches us first aid, water safety, and proper care of the ill and injured; who instills in our young people those qualities of leadership that will mean so much to this Nation in later years; who donates the blood that gives renewed life to the sick; and who comes to the assistance of the men and women of our armed forces, and to veterans and their families.

March has traditionally been observed as Red Cross Month. It is a time for concerned people to address their thoughts to those qualities of compassion, understanding and selflessness which identify the Red Cross spirit of volunteerism.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March 1978, as Red Cross Month. I urge all Americans to give generous support to the work of their local Red Cross chapter.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of February, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4552 • **March 15, 1978**

Cancer Control Month, 1978

By the President of the United States of America

A Proclamation

Of all known diseases in this country, cancer is probably the most feared. Recent statistics indicate that 700,000 cases of cancer will be diagnosed in the United States in 1978 and that 390,000 Americans will die of some form of the disease this year. Only through continued support of cancer research and control can we reduce these figures.

The Federal Government, in cooperation with non-Federal organizations, is committed to finding the cause and cure of all forms of cancer and of controlling it to the extent possible while that search goes on. Since the inception of the National Cancer Program, we have learned much about the cause, detection, treatment and control of cancer. Today, cancer can often be detected earlier, making more effective treatment possible and saving many lives. Surgical, radiation and chemotherapy techniques have been improved, and research shows promise of adding immunotherapy as an additional method of treatment. Because prevention offers the best hope for ultimate control of cancer, cause and prevention research remains one of our highest priorities for we still have much to learn.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of April, 1978, as Cancer Control Month as requested in the joint resolution of the Congress March 28, 1938 (52 Stat. 148, 36 U.S.C. 150). I invite the Governors of the States and the appropriate officials of all other areas under the United States flag to issue similar proclamations.

I also encourage the medical and health professions, the communications media and other interested persons and groups to take this opportunity to educate the people on this subject and to help them to take advantage of available resources to prevent needless suffering and death.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4553 • **March 16, 1978**

Small Business Week, 1978

By the President of the United States of America

A Proclamation

Small business has been the economic backbone of American life since the earliest colonial days. Traders, craftsmen and merchants spurred the economy and played a vital role in the Nation's westward movement and growth. They helped create the multitude of opportunities that distinguish our free enterprise system—the system which has made American progress the envy of the world.

Of the 14 million businesses in the United States today, more than 13 million of them are small, including some three million farms. Together, they provide employment for over half the business labor force and account for more than 48 percent of the gross business product. America's prestige in the world today could never have been achieved without this outstanding productivity.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning April 30, 1978, as Small Business Week, and I urgently call on every American to join me in this very special tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4554 • **March 16, 1978**

World Trade Week, 1978

By the President of the United States of America

A Proclamation

From the days of its founding, the United States has always been a trading nation. Commercial relations with the rest of the world enabled our country to develop, prosper, and grow strong. Today, more than ever, international trade is essential to our national well-being.

For the American consumer, expanded trade means broader choices in the marketplace. For American business, it means more opportunities to sell the products of American ingenuity in the world's markets. For the American worker, it means more jobs at home.

International trade encourages the exchange of ideas as well as knowledge and experience among nations. It helps make better use of global resources and nurtures trust among the world's nations.

The United States is firmly committed to fair and open trade. To that end, we and our trading partners are pledged to eliminate impediments to trade, bring about sound and liberal trade rules, and keep the world's economy moving ahead.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States, do hereby proclaim the week beginning May 21, 1978, as World Trade Week, and I urge that all the people of the United States participate during this week in activities that will promote continuing awareness of the importance of world trade to our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4555 • **March 16, 1978**

National Maritime Day, 1978

By the President of the United States of America

A Proclamation

The American Merchant Marine is the lifeline that links America with its overseas trading partners. In times of peace, it builds our economy; in times of national emergency, it provides logistic support to our armed forces.

In recognition of the importance of the American Merchant Marine, the Congress, by joint resolution of May 20, 1933 (48 Stat. 73; 36 U.S.C. 145), designated May 22 of each year as National Maritime Day in commemoration of the departure from Savannah, Georgia, on that date in 1819 of the SS SAVANNAH on the first transatlantic voyage by any steamship, and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby urge the people of the United States to honor our American

Merchant Marine on May 22, 1978, by displaying the flag of the United States at their homes and other suitable places, and I request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4556 • **March 21, 1978**

National Farm Safety Week, 1978

By the President of the United States of America

A Proclamation

All Americans, and a sizeable portion of the rest of the world's people, depend upon American agriculture for much of their food and fiber. Anything that diminishes the ability of farmers and ranchers to meet these vital needs is of great concern. Farm accidents are among the costliest impediments to production and cause great suffering and economic loss.

Accidents can destroy the lives and bodies, as well as the economic resources of farm families. Neither the individuals involved, nor the Nation, can afford these losses. Farm safety leaders believe that most farm accidents could be prevented with greater care in controlling hazards and unsafe practices—the same kind of dedicated, careful management and attention to detail that has made possible our incredible increase in agricultural production.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 25, 1978, as National Farm Safety Week. I call upon the men and women who operate the Nation's farms and ranches to regard safety as an integral part of all their activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4557 • **March 23, 1978**

Pan American Day and Pan American Week, 1978

By the President of the United States of America

A Proclamation

For more than one hundred and fifty years the nations of the Western Hemisphere have recognized that peace and understanding can be achieved only if we are willing to put aside our differences and join together to solve our problems and share our opportunities. Drawing upon a common heritage and shared hopes for the future, the nations of the Americas constantly seek ways to strengthen their ties with each other. Their success in achieving these goals is due in large measure to the Organization of American States, the world's oldest regional organization.

Through the Organization of American States we in the Western Hemisphere have developed a unique system of cooperation which promotes political understanding, economic progress and social justice. An organization of great vitality and adaptability, it is now responding vigorously to the new challenges of the last quarter of the twentieth century. For these reasons, the United States continues, and will continue, to lend its full support to the Organization of American States and the Inter-American System. Accordingly, it is appropriate that we join with its other members in reaffirming our mutual commitment to friendship, trust and cooperation.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Friday, April 14, 1978, as Pan American Day, and the week beginning April 9, 1978 as Pan American Week and call upon all Americans to honor these observances with ceremonies and activities that will reflect the continuing commitment of the United States of America to a peaceful and productive relationship among the nations and peoples of the Western Hemisphere.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4558 • **March 27, 1978**

Sun Day, 1978

By the President of the United States of America

A Proclamation

Today the need to develop and expand renewable energy sources that can provide heating, cooling and power for homes, farms and factories is greater than at any other time in our Nation's history. For this reason, Americans are seeking ways of using the sun as an inexhaustible source of clean energy.

The Federal government and private organizations are working on programs to improve solar technology and encourage greater use of this safe, environmentally acceptable energy source. Our success, however, will depend upon an informed and involved public.

Ante, p. 186.

In order to inform the general public, industry and labor about solar technologies and to demonstrate the sun's potential in meeting America's energy needs, the Ninety-fifth Congress has adopted a joint resolution (H.J. Res. 715) designating Wednesday, May 3, 1978, as Sun Day and calling upon the President to issue a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Wednesday, May 3, 1978, as Sun Day and call upon the American people to observe that day with appropriate activities and ceremonies that will demonstrate the potential of solar energy. I direct all appropriate Federal agencies to support this national observance.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4559 • **April 5, 1978**

Modification of Temporary Quantitative Limitations on the Importation into the United States of Certain Articles of Alloy Tool Steel

By the President of the United States of America

A Proclamation

1. Proclamation No. 4445, of June 11, 1976, as modified by Proclamation No. 4477 of November 16, 1976, and Proclamation No. 4509 of June 15, 1977, imposed quantitative restrictions on the importation of certain articles of specialty steels. Section 203(h)(4) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2253(h)(4)) permits the President to reduce or terminate any such relief if, after taking into account advice received from the United States International Trade Commission (USITC) and after seeking advice from the Secretaries of Commerce and Labor, the President determines that the reduction or termination is in the national interest. 19 USC 1202 and note.

2. I have sought and received advice from the USITC and from the Secretaries of Commerce and Labor concerning the effects of reducing or terminating import relief provided by Proclamation No. 4445, as modified by Proclamation No. 4477 and Proclamation No. 4509, on steel provided for in item 923.26 of the Tariff Schedules of the United States (TSUS). I have determined, after considering that advice, that the exclusion of certain steels provided for in item 923.26 of the TSUS, known as chipper knife steel and band saw steel, from such quantitative restrictions is in the national interest. 19 USC 1202.

3. Accordingly, the purpose of this proclamation is to terminate in part Proclamation No. 4445 of June 11, 1976, as modified by Proclamation No. 4477 of November 16, 1976, and Proclamation No. 4509 of June 15, 1977, so as to exclude so-called chipper knife steel and band saw steel provided for in item 923.26, TSUS, from the present quantitative restrictions for the remainder of the restraint period which began on June 14, 1977 and the entire restraint period beginning on June 14, 1978, and to make an appropriate reduction in the quota quantities for item 923.26, TSUS, applicable to the European Economic Community and Sweden for the restraint period beginning June 14, 1978 to reflect the exclusion of so-called chipper knife steel and band saw steel. The authority for this action is set forth in section 203(h)(4) (19 U.S.C. 2253(h)(4)), and section 125(b) (19 U.S.C. 2134(b)) of the Trade Act. 19 USC 2135.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 125 and 203 of the Trade Act (19 U.S.C. 2135 and 2253, respectively), do proclaim that—

A. Subpart A, part 2, of the Appendix to the TSUS (19 U.S.C. 1202) is modified as follows:

(1) by modifying headnote 2(a)(iii) to read as follows:

"(iii) The term "*alloy tool steel*" in item 923.26 refers to alloy steel which contains the following combinations of elements in the quantity, by weight, respectively indicated:

not less than 1.0% carbon and over 11.0% chromium; or
not less than 0.3% carbon and 1.25% to 11.0% inclusive chromium; or
not less than 0.85% carbon and 1% to 1.8% inclusive manganese; or
0.9% to 1.2% inclusive chromium and 0.9% to 1.4% inclusive molybdenum; or
not less than 0.5% carbon and not less than 3.5% molybdenum; or
not less than 0.5% carbon and not less than 5.5% tungsten;
but does not include the three following types of alloy tool steel which contain, in addition to iron, each of the specified elements by weight in the amounts indicated:

(I)

carbon: not less than 0.95 nor more than 1.13 percent;
manganese: not less than 0.22 nor more than 0.48 percent;

	sulfur:	none, or not more than 0.03 percent;
	phosphorus:	none, or not more than 0.03 percent;
	silicon:	not less than 0.18 nor more than 0.37 percent;
	chromium:	not less than 1.25 nor more than 1.65 percent;
	nickel:	none, or not more than 0.28 percent;
	copper:	none, or not more than 0.38 percent;
	molybdenum:	none, or not more than 0.09 percent; or
(2)		
	carbon:	not less than 0.48 nor more than 0.55 percent;
	manganese:	not less than 0.20 nor more than 0.50 percent;
	silicon:	not less than 0.75 nor more than 1.05 percent;
	chromium:	not less than 7.25 nor more than 8.75 percent;
	molybdenum:	not less than 1.25 nor more than 1.75 percent;
	tungsten:	none, or not more than 1.75 percent;
	vanadium:	not less than 0.20 nor more than 0.55 percent; or
(3)		
	carbon:	not less than 0.47 nor more than 0.53 percent;
	manganese:	not less than 0.60 nor more than 0.90 percent;
	sulfur:	none, or not more than 0.015 percent;
	phosphorus:	none, or not more than 0.025 percent;
	silicon:	not less than 0.10 nor more than 0.25 percent;
	chromium:	not less than 0.90 nor more than 1.10 percent;
	nickel:	not less than 0.50 nor more than 0.70 percent;
	molybdenum:	not less than 0.90 nor more than 1.10 percent;
	vanadium:	not less than 0.08 percent nor more than 0.15 percent;"

(2) by inserting "3,167" and "8,295" in lieu of the existing quota quantities applicable to the European Economic Community and Sweden, respectively, in the quota quantity column headed June 14, 1978, for item 923.26.

19 USC 1202. B. The modifications of subpart A of part 2 of the Appendix to the TSUS, made by this proclamation, shall be effective as to articles entered, or withdrawn from warehouse, for consumption on and after the second day following the date of publication of this proclamation in the FEDERAL REGISTER.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of April, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4560 • **April 7, 1978**

Agreement on Trade Relations Between the United States of America and the Hungarian People's Republic

By the President of the United States of America

A Proclamation

As President of the United States of America, acting through my representatives, I entered into the negotiation of an agreement on trade relations between the United States of America and the Hungarian People's Republic with representatives of the Hungarian People's Republic;

19 USC 2101. The negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93-618, January 3, 1975; 88 Stat. 1978) ("the Act");

An "Agreement on Trade Relations between the United States of America and the Hungarian People's Republic," in English and Hungarian, was signed on March

17, 1978, by representatives of the two Governments, and is annexed [1] to this Proclamation;

The Agreement conforms to the requirements relating to bilateral commercial agreements specified in Section 405(b) of the Act;

19 USC 2435.

Article XI of the Agreement provides that it shall enter into force on the date of exchange of written notices of acceptance by the Governments of the United States of America and the Hungarian People's Republic; and

Section 405(c) of the Act provides that a bilateral commercial agreement and a proclamation implementing such agreement shall take effect only if approved by the Congress;

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, proclaim as follows:

(1) This Proclamation shall become effective, said Agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the Hungarian People's Republic in accordance with the terms of the said Agreement, on the date of exchange of written notices of acceptance in accordance with Article XI of the said Agreement; and [2]

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "Hungary" as of the effective date of this proclamation and a notice thereof shall be published in the FEDERAL REGISTER promptly thereafter.

19 USC 1202.

IN WITNESS WHEREOF, I have signed this Proclamation this seventh day of April, in the year of our Lord one thousand nine hundred seventy-eight, and of the Independence of the United States of America the two hundred second.

JIMMY CARTER

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[1] Filed with the Office of the Federal Register as part of the original document.

[2] The effective date of Proclamation 4560 is July 7, 1978.

Proclamation 4561

April 7, 1978

Temporary Duty Increase on the Importation Into the United States of Certain Citizens Band (CB) Radio Transceivers

By the President of the United States of America

A Proclamation

1. Pursuant to section 201(d)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2251(d)(1)), the United States International Trade Commission (USITC) on February 2, 1978, reported to the President (USITC Report 201–29) the results of its investigation under section 201(b) of the Trade Act (19 U.S.C. 2251(b)). The USITC determined that Citizens Band (CB) radio transceivers, provided for in item 685.25 (which was changed to item 685.28 by Executive Order 12032, and which is now being changed to item 685.27 by the Annex to this proclamation) of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The USITC was divided on its remedy recommendations to the President.

3 CFR 164.

2. On March 27, 1978, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy or prevent the injury or threat thereof found to exist by the USITC through the

proclamation of a temporary duty increase. On March 27, 1978, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to proclaim a temporary duty increase and stating the reasons why my decision differed from the actions recommended by the USITC.

3. Section 503(c)(2) of the Trade Act (19 U.S.C. 2463(c)(2)) provides that no article shall be eligible for purposes of the Generalized System of Preferences (GSP) for any period during which such article is the subject of any action proclaimed pursuant to section 203 of the Trade Act (19 U.S.C. 2253).

4. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 15 days after the import relief determination date.

5. Pursuant to sections 203(a)(1), 203(e)(1), and 503(c)(2) of the Trade Act (19 U.S.C. 2253(a)(1), 2253(e)(1), and 2463(c)(2)), I am providing import relief through the temporary increase of import duty on, and the removal from eligibility for duty free entry under the GSP of, certain Citizens Band (CB) radio transceivers, including those capable of receiving signals on bands other than the Citizens Band, as hereinafter proclaimed.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including title V, section 604 and section 203 of the Trade Act (19 U.S.C. 2461 *et seq.*; 19 U.S.C. 2483; and 19 U.S.C. 2253), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX to the GATT is modified to conform to the actions taken in paragraphs 2 and 3 of the Annex to this proclamation.

19 USC 1202.

(2) General Headnote 3(c)(iii), part 5 of schedule 6, and subpart A, part 2 of the Appendix to the TSUS are modified as set forth in the Annex to this proclamation.

19 USC 2462 note.

(3) Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended by adding item 685.29 (as added by the Annex to this proclamation), in numerical sequence.

(4) Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in General Headnote 3(c)(iii) of the TSUS, is amended by deleting item 685.28 therefrom.

Effective date.

(5) This proclamation shall be effective as to those articles entered, or withdrawn from warehouse, for consumption on or after April 11, 1978. The increased rates of duty provided for in the Annex to this proclamation shall apply only with respect to articles entered, or withdrawn from warehouse, for consumption before the close of April 10, 1981, unless the period of their effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of April in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred second.

JIMMY CARTER

ANNEX

1. General Headnote 3(c)(iii) of the TSUS is modified by deleting "685.28 . . . . Republic of China"
2. Part 5 of schedule 6 of the TSUS is modified by—

(a) adding the following new headnote:

"4. For the purposes of the tariff schedules, handheld Citizens Band (CB) radio transceivers are Citizens Band (CB) radio transceivers designed for operation in the hand, having a permanently affixed antenna and an internal microphone, and not designed for use with an external power source."

(b) deleting item 685.28 and substituting the following new provisions in lieu thereof:

G S P	Item	Articles	Rates of Duty	
			1	2
		"Other:		
	685.27	Citizens Band (CB) radio transceivers (except hand-held)	6% ad val.	35% ad val.
A	685.29	Other	6% ad val.	35% ad val."

3. Subpart A, part 2 of the Appendix to the TSUS is modified by inserting in numerical sequence the following new provision:

Item	Articles	Rates of duty			
		1			2
		Effective on or after—			
		April 11 1978	April 11, 1979	April 11, 1980	
"923.85	Citizens Band (CB) radio transceivers (except handheld) provided for in items 685.27	21% ad val.	18% ad val.	15% ad val.	No change".

Proclamation 4562 • **April 17, 1978**

Education Day, U.S.A., 1978

By the President of the United States of America

A Proclamation

On April 13 of this year the Congress of the United States concluded its deliberations on a joint resolution which recognized the need for this Nation to set aside a special day devoted to recognizing the importance of education in the lives of our citizens. To emphasize its commitment, the Congress has authorized and requested the President to issue a proclamation designating April 18, 1978 as Education Day, U.S.A., and calling for its appropriate observance. I am honored to join with the House of Representatives and the Senate in recognizing this need and privileged to comply with their request.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Tuesday, April 18, 1978, as Education Day, U.S.A. and I ask all Americans to observe that day in such manner as reflects their commitment to education and their recognition of its importance to the welfare of this Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4563 • **April 17, 1978**

National Oceans Week, 1978

By the President of the United States of America

A Proclamation

Throughout history the ocean has been a magnet for explorers, scientists, merchants, adventurers—and dreamers. Where once the oceans were cloaked in superstition, today we plumb their depths with an amazing array of technological devices, and we are beginning to understand the vital role of the oceans in life on this planet. The world community looks to the oceans as a vital source of food, energy and mineral resources, while they remain crucial to trade as they have been since ancient times.

As governments, international organizations and private groups develop plans and programs to harvest some of the riches of the sea, we must also control marine pollution. We must unlock the secrets of the ocean to understand the results of man's activities—not only at sea, but on land as well—which adversely affect sea-life. It is essential that we discover and work with the oceans' capacity to survive misuse. All the peoples of the world must understand that the ocean cannot be subjected to unchecked exploitation, but because our Nation lies between the world's largest oceans, and because of our economic position, the United States has a special responsibility in preventing the deadening of the seas. A careful balance between conservation and commercial development must be achieved if the oceans are to meet the needs of future generations.

Ante, p. 201.

In order to increase public awareness of the importance of the oceans of the world, the Ninety-fifth Congress has adopted a joint resolution (S.J. Res. 124) requesting the President to issue a proclamation designating the week of April 16 through April 22, 1978, as National Oceans Week.

NOW, THEREFORE, I JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning Sunday, April 16, 1978, as National Oceans Week.

I call upon public officials, users of the oceans and coasts, environmental organizations, industry, the media and civic leaders to join together to make the public aware of the importance of our ocean resources and I urge every American to take the time and trouble to learn about the proper use and management of our marine waters and the wealth of their contents.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4564 • **April 19, 1978**

Older Americans Month, 1978

By the President of the United States of America

A Proclamation

When the month of May was first set aside in 1963 in special tribute to our Nation's senior citizens, there were fewer than eighteen million Americans over the age of sixty-five. Today, their number exceeds twenty-three million.

Older Americans are an invaluable source of talent, skills and experience. Their sacrifice and hard work in the past have brought us through wars and hard times, and kept our Nation faithful to the values and principles on which it was founded. They are our link with what has gone before, remembering the good things we are in constant danger of losing, as well as the bad things we have overcome, and how it was possible. They can help us understand the mistakes of the past so that we do not repeat them. They can help us gather strength and courage from the wisdom of the past to make a better future for our children.

Their skills and knowledge are important to our economy, and it is important to their lives and health that they be able to remain as self-reliant as possible, through employment and other opportunities, and through necessary supportive services that enable them to live their later years in dignity and self-respect. Just as they must not be arbitrarily excluded from contributing to our society, they must not be asked to bear the burdens of society when they are no longer able.

These men and women are a vital part of this Nation. Like all Americans, they need comfortable and safe places to live, nutritious daily diets and adequate incomes and services to give them freedom to make choices. We all must work together to create these conditions in our communities.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the month of May as Older Americans Month and I ask public officials at all levels, community agencies, educators, the clergy, the communications media and each American to help make it possible for older Americans to enjoy their later years.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4565 • **April 25, 1978**

Law Day, U.S.A., 1978

By the President of the United States of America

A Proclamation

More than any other country, the United States of America is founded upon law. Our people are enormously varied in ethnic and cultural background, in religious belief, and even in language and place of origin. What unites us in our diversity is a common commitment to the Constitution and the laws, and the liberties they represent. These are the basis of our very Nationhood.

This year we once again set aside a special day to honor our commitment to the rule of law. For this year's observance, the American Bar Association has selected the theme of "Your Access to Justice." It is a most appropriate one, for it asks us to reflect not only upon how our legal system can be made more responsive to our needs, but also upon the nature of justice itself.

Access to justice involves issues that lie beyond the scope of any single group. The law is not the private property of lawyers, nor is justice the exclusive province of judges and juries. In the final analysis, true justice is not a matter of courts and law books, but of a commitment in each of us to liberty and to mutual respect. Accordingly, the efforts of the legal profession to elicit the help and advice of all Americans are to be commended.

To encourage the people of the United States to consider their individual responsibilities with respect to our legal system, the Congress, by joint resolution approved April 7, 1961 (75 Stat. 43, 36 U.S.C. 164) has requested the President to issue a proclamation calling upon the American people to observe the first day of May of each year as Law Day, U.S.A.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to celebrate Monday, May 1, 1978, as Law Day, U.S.A., and to honor the principle of equal justice under law. I ask all public officials to display the flag of the United States on all public buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4566 • **April 25, 1978**

National Architectural Barrier Awareness Week, 1978

By the President of the United States of America

A Proclamation

Physical access is often the key to whether people can enjoy their rights and freedoms, and exercise their responsibilities. Every day, however, millions of elderly and handicapped Americans are denied access to places of employment, houses of worship, shops, schools, public services, recreational areas and many other facilities that other Americans take for granted.

If all Americans are to have true access, we must remove the architectural barriers in our society that block some of our people from full participation and self-reliance. We must also remove the barriers of attitude and custom that have prevented many people from doing what they can.

42 USC 4151 note.

The Congress expressed its commitment to the removal of physical barriers from Federal buildings by enacting the Architectural and Transportation Barriers Act in 1968. The Architectural and Transportation Barriers Compliance Board, created to enforce that act, will soon launch a national media campaign about barriers using the slogan, "Access America."

29 USC 794.

This Administration has taken steps to improve the access of handicapped citizens by issuing regulations under Section 504 of the Rehabilitation Act which require recipients of federal financial assistance to improve the accessibility of their programs to the disabled. We have also proposed a loan fund to assist institutions to pay for physical alterations when needed.

Many of the barriers that block people from opportunity and fulfillment are not subject to Federal regulation. Their elimination will require awareness and concern on the part of business and industry, state and local governments and organizations of all sorts, as well as individuals, in order that our society may provide access for full participation to all our people.

To encourage public awareness of the problems of such barriers, the Ninety-fifth Congress has adopted a joint resolution (H.J. Res. 578) requesting the President to issue a proclamation designating the third week in May of the 1978 and of 1979 as National Architectural Barrier Awareness Week and calling for its appropriate observance.

Ante, p. 212.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the third week of May 1978 as National Architectural Barrier Awareness Week and ask all Americans to do all that lies within their power to remove these unnecessary barriers and to eliminate any lingering social and psychological stigma surrounding disabilities. Together we can make access a reality for all Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4567 • **April 27, 1978**

Loyalty Day, 1978

By the President of the United States of America

A Proclamation

Throughout the remainder of our third century of national existence, America will face problems that will differ markedly from those we have confronted in the past. Yet some things will remain constant. Among these is the loyalty of the American people.

Because we are a free people, the loyalty we feel to our country is deeper than that which any imposed political or ideological orthodoxy could possibly evoke. And as long as we continue to remain faithful to the principles and freedoms on which our republic was founded, that loyalty will see us through whatever challenges lie ahead.

To encourage the people of the United States to reflect upon the liberties and institutions that have inspired the loyalty of so many generations of Americans, the Congress, by joint resolution of July 18, 1958 (72 Stat. 369; 36 U.S.C. 162) has designated the first day of May of each year as Loyalty Day and has requested the President to issue a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon all Americans to observe Monday, May 1, 1978, as Loyalty Day. I ask the appropriate officals of the Government to display the flag of the United States on that day on all Government buildings.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of April, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4568 • **May 9, 1978**

Application of Certain Laws of the United States to the Northern Mariana Islands

By the President of the United States of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). The United States has undertaken to promote the political development of the Trust Territory toward self-government or independence and to protect the rights and fundamental freedoms of its people.

90 Stat. 277.
48 USC 1681 note.

In accordance with those obligations, the United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94-241; 90 Stat. 263). Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended.

Certain provisions of law restrict jury service in Federal District Courts to United States citizens. The vast majority of the inhabitants of the Northern Mariana Islands are not citizens of the United States and consequently may not participate as jurors in proceedings before the United States District Court for the Northern Mariana Islands. They may also be deprived of the right to have their cases heard before juries selected at random from a fair cross-section of their community. These results would be contrary to the obligations assumed by the United States in the Trusteeship Agreement.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

Any provision of the Constitution or laws of the United States which prescribes United States citizenship as a qualification for service on a grand or petit jury in the District Court for the Northern Mariana Islands, including that provision contained in Section 1865(b)(1) of Title 28 of the United States Code, would be inconsistent with the Trusteeship Agreement if applied to a citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands. 90 Stat. 278.

Therefore, the application to such individual of any of these provisions is suspended until the termination of the Trusteeship Agreement for the Former Japanese Mandated Islands in the Pacific (61 Stat. 3301).

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4569 • **May 10, 1978**

National Historic Preservation Week, 1978

By the President of the United States of America

A Proclamation

America's ability to meet the challenges of its third century with confidence and strength will depend upon an appreciation and understanding by the American people of their past.

Among our most important links with the past are the historic sites, structures, and landmarks of earlier times. Together, they form a vast legacy of cultural resources. This legacy, however, is not merely one of monuments, battlefields, and historic buildings. It includes the houses, streets, stores and factories that make up our communities—those familiar places and structures that remind us of the accomplishments, character, and dreams of our forebears.

For our own sake, and for that of future generations of Americans, we must do all that lies within our power to preserve this cultural heritage.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning May 7, 1978, as National Historic Preservation Week. I call upon Government agencies at all levels, interested private individuals and organizations, and Americans everywhere, to mark this observance with appropriate ceremonies and activities in their communities and neighborhoods.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4570 • **May 11, 1978**

Mother's Day, 1978

By the President of the United States of America

A Proclamation

Motherhood is a lifelong commitment.

It is a promise to share in fulfilling all the unique potential of a helpless newborn child, and to shape that person into an independent, responsible adult. For some, motherhood means guiding bright minds, strong bodies, and exquisite talents—maintaining a delicate balance between humanity and the special gifts of God. For others, motherhood means helping a weak body or an unawakened mind overcome burdens that may often seem too great to bear. For both, motherhood brings the privilege of seeing the tired world through fresh eyes and the satisfaction of knowing that one has met another's needs in a way no other could.

To the mothers of America, in recognition of their achievements in the art of raising a new generation of Americans and as an acknowledgment of all they have

38 Stat. 771.
36 USC 142.

done to shape our national character, the Congress, by joint resolution of May 8, 1914 (38 Stat. 770; 36 U.S.C. 141), has set aside the second Sunday in May of each year as a day of special tribute.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby request that Sunday, May 14, 1978, be observed throughout our Nation as Mother's Day. I ask all Americans to take this opportunity to express their personal gratitude to their own mothers and to thank all those women whose tireless devotion to their families has so enriched our Nation.

I ask all public officials to display the flag of the United States on all government buildings and urge all Americans to display our flag at their homes or other suitable places on that day as a public expression of our love for the mothers of our country.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4571 • **May 15, 1978**

Armed Forces Day, 1978

By the President of the United States of America

A Proclamation

The men and women of the Army, Navy, Air Force, Marine Corps and Coast Guard serve their country with pride and dignity. Each day we enjoy peace is a reminder of their important role.

It is with equal pride that we Americans set aside one day each year to pay tribute to these patriotic volunteers, stationed throughout the world.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States and Commander-in-Chief of the Armed Forces of the United States, continuing the precedent of my six immediate predecessors in this Office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I direct the Secretary of Defense on behalf of the Army, the Navy, the Air Force, and the Marine Corps, and the Secretary of Transportation on behalf of the Coast Guard, to plan for appropriate observances each year, with the Secretary of Defense responsible for soliciting the participation and cooperation of civil authorities and private citizens.

I invite the Governors of the States, the Commonwealth of Puerto Rico, and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States.

I also invite national and local veterans, civic and other organizations to join in the observance of Armed Forces Day each year.

I call upon my fellow Americans not only to display the flag of the United States at their homes on Armed Forces Day, but also to learn about our system of defense, and about the men and women who sustain it, by attending and participating in the local observances of the day.

Proclamation 4492 of March 22, 1977, is hereby superseded. 91 Stat. 1727.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4572 • **May 19, 1978**

Prayer for Peace

Memorial Day, May 29, 1978

By the President of the United States of America

A Proclamation

We pause at this time of year to remember those who sacrificed their lives over the last two centuries to preserve America's freedoms.

We honor them today for their faith in the principles of liberty and justice which motivated our founding fathers, and must motivate us today.

The highest tribute we can pay those who fought and sometimes died for our country is to strengthen in time of peace those values for which they struggled in time of war.

Let us pray for peace, but let us also vow that, if the test of unavoidable combat should ever come again, we will meet it with courage, and devotion to our country.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Memorial Day, May 29, 1978, as a day for all Americans to join together in prayer for lasting peace. To that end, I designate the hour beginning in each locality at 11 o'clock on the morning of that day as the appropriate time for the American people to unite in prayer.

I call upon the appropriate officials of all levels of government to fly the flag at half-staff until noon during Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I request the people of the United States to display the flag at half-staff from their homes and other suitable places for the same customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4573 • **May 30, 1978**

Flag Day and National Flag Week, 1978

By the President of the United States of America

A Proclamation

The American flag has grown and changed with the Nation. But for two hundred years, the United States remained unchanging in its commitment to the ideals which gave birth to that flag.

To commemorate the anniversary of the adoption on June 14, 1777 by the Continental Congress of the Stars and Stripes as the official flag of the United States of America, the Congress has requested the President to issue a proclamation calling for the observance of the fourteenth day of June of each year as Flag Day and the week in which that day occurs as National Flag Week (36 U.S.C. 157 and 157a).

To encourage the American people to reflect upon their Nation, its heritage, and its course in the years ahead, the Congress, by joint resolution of June 13, 1975, has set aside the twenty-one days from Flag Day through Independence Day as a period to honor America (36 U.S.C. 157b).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby call upon the American people to observe June 14, 1978 as Flag Day and the week beginning June 11, 1978 as National Flag Week. I direct the appropriate officials of the Government to display the flag on all Government buildings during that week and ask the American people to display our flag at their homes and other suitable places for the same period.

I also ask each American to observe the period from Flag Day through Independence Day as a period to honor America. To that end, I ask all Americans to participate in local activities that reflect an understanding and appreciation of America and its institutions.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4574 • **June 9, 1978**

Father's Day, 1978

By the President of the United States of America

A Proclamation

Today's fathers face new challenges as America changes. In addition to their traditional role as breadwinner for the family, many fathers are playing a greater role in raising children and in the home. The preservation of America's family structure will, in large measure, depend upon their ability to meet these demands.

To honor our Nation's fathers, and to provide an opportunity to reflect upon their contributions to our society, the Congress, by joint resolution of April 24, 1972 (86 Stat. 124; 36 U.S.C. 142a), has asked the President to issue annually a proclamation calling upon the American people to observe the third Sunday in June of each year as Father's Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby request that Sunday, June 18, 1978, be observed as Father's Day. I direct Government officials to display the flag of the United States on all Government buildings on that day and I urge all citizens to display the flag at their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of June, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4575 **June 14, 1978**

University Press Centennial Observance

By the President of the United States of America

A Proclamation

America's colleges and universities have always met their responsibilities for preserving and enlarging the body of human knowledge. In our open society, they have an additional duty—that of making such knowledge available beyond the gates of the campus.

It was in recognition of that duty that the first university-affiliated press was established, in 1878, at John's Hopkins University. In the century since, our country's university presses have established an admirable tradition of literary and graphic quality. Today the standard of excellence which they have established is being applied to an ever-increasing variety of subjects. As a result, one-sixth of all American books in print today are issued by American university presses.

In recognition of the impact, both here and abroad, of American university presses on culture and scholarship, the Ninety-fifth Congress, by joint resolution (S.J. Res. 140) has asked the President to issue a proclamation commemorating the American university press. *Ante*, p. 318.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the seven-day period ending on June 17, 1978 as University Press Week and call upon the people of the United States, as well as all interested groups and organizations, to mark that period with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of June, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4576 • **June 30, 1978**

Free Enterprise Day, 1978

By the President of the United States of America

A Proclamation

The development of the American economy has historically been the result of the interaction between the abundant natural resources of our land and the enterprising spirit of our people. Our system of economic enterprise reflects many of the same values that are embodied in our political system of democracy and civil liberty.

Excessive government regulation—regulation that does not serve the public interest—must concern us all. Unfortunately, free enterprise is sometimes easier to praise than to practice. But all who believe in free enterprise can take heart from the fact that when it is reintroduced into areas of our economy where it has long been dormant, the results can be salutary. A good example is the airline industry, where recent administrative steps toward greater competition have quickly led to both lower fares and higher profits, confirming the advisability of permanent deregulation by law.

Ante, p. 364.

By joint resolution (S.J. Res. 128), the Congress has authorized and requested the President to issue a proclamation designating July 1, 1978, as "Free Enterprise Day."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim July 1, 1978, as Free Enterprise Day. I call upon the people of the United States and interested groups and organizations to mark this observance with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

JIMMY CARTER

Proclamation 4577 • **July 4, 1978**

Quantitative Limitation on the Importation of Certain Meat

By the President of the United States of America

A Proclamation

The Act of August 22, 1964 (78 Stat. 594; 19 U.S.C. 1202 note), provides for the limitation of certain meat imports if import estimates exceed 110 percent of an adjusted base quantity for that year. The limitation applies to fresh, chilled, or frozen cattle meat and fresh, chilled, or frozen meat of goats and sheep, except lamb.

19 USC 1202 note.

On December 30, 1977, the Secretary of Agriculture determined (43 FR 987) in accord with Section 2(b)(1) of the Act that the adjusted base quantity of meat for the calendar year 1978 is 1,183.9 million pounds. The Secretary now has estimated (in the 1978 third quarterly estimate) that the aggregate imports of meat for 1978 will be 1,492.3 million pounds. This estimate exceeds 110 percent of the previously determined adjusted base quantity for 1978.

In accord with Section 2(c) of the Act, the President must limit the import of meat to the adjusted base quantity for 1978 of 1,183.9 million pounds, unless he increases or suspends that limitation pursuant to Section 2(d) of the Act.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by Section 2 of the Act, do hereby proclaim as follows:

1. The total quantity of the articles specified in item 106.10 (relating to fresh, chilled, or frozen meat) and item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lamb)) of part 2B, schedule 1 of the Tariff Schedules of the United States, which may be entered, or withdrawn from warehouse, for consumption during the calendar year 1978, is limited to 1,183.9 million pounds. 19 USC 1202.

2. In accord with Section 2(d) of the Act, I determine that the supply of meat described in Paragraph 1 hereof will be inadequate to meet domestic demand at reasonable prices.

3. The limitation proclaimed in Paragraph 1 hereof is suspended during the period of calendar year 1978, which is the period that I determine to be necessary to carry out the purposes of Section 2(d) of the Act.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of July, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4578 • **July 11, 1978**

Captive Nations Week, 1978

By the President of the United States of America

A Proclamation

By a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week of July in each year as Captive Nations Week.

For more than two hundred years our Nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles. In particular, we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 16, 1978, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence, and basic human rights.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of July, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4579 • **July 19, 1978**

Citizenship Day and Constitution Week, 1978

By the President of the United States of America

A Proclamation

September 17, 1978, will mark the 191st anniversary of the signing, in Independence Hall, Philadelphia, of the Constitution of the United States. That great document has endured, with but few changes, as the finest foundation of government in the history of mankind.

By a joint resolution of February 29, 1952 (36 U.S.C. 153), Congress designated September 17 as Citizenship Day, in commemoration of the signing of the Constitution and in recognition of all who, by coming of age or by naturalization, have attained the status of citizenship; Congress also authorized the President to issue annually a proclamation calling upon officials of the Government to display the flag on all Government buildings on that day. By a joint resolution of August 2, 1956, (36 U.S.C. 159), Congress authorized the President to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue a proclamation calling for the observance of that week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, call upon appropriate government officials to display the flag of the United States on all government buildings on Citizenship Day, September 17, 1978, the 191st anniversary of the signing of the Constitution. I urge Federal, State, and local officials, as well as leaders of civic, educational and religious organizations, to conduct suitable ceremonies and programs on that day.

I also designate as Constitution Week the period beginning September 17 and ending September 23, 1978, and urge all Americans to observe that week with ceremonies and activities in their schools, churches and in other suitable places in order to foster a better understanding of the Constitution and of the rights and duties of United States citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of July in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States the two hundred and third.

JIMMY CARTER

Proclamation 4580 • **August 3, 1978**

National Grandparents Day, 1978

By the President of the United States of America

A Proclamation

Our nation was shaped by the wisdom and courage of our founding fathers, and by the steadfastness of succeeding generations who have sustained their vision through two turbulent centuries of challenge and growth.

Each American family is similarly shaped and guided by its forbears. Just as a nation learns and is strengthened by its history, so a family learns and is strengthened by its understanding of preceding generations. As Americans live longer, more and more families are enriched by their shared experiences with grandparents and great-grandparents.

The elders of each family have the responsibility for setting the moral tone for the family and for passing on the traditional values of our nation to their children and grandchildren. They bore the hardships and made the sacrifices that produced much of the progress and comfort we enjoy today. It is appropriate, therefore, that as individuals and as a nation, that we salute our grandparents for their contribution to our lives.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Sunday, September 10, 1978, as "National Grandparents Day." I urge officials of Government at the national, state, and local levels, and of voluntary organizations to plan appropriate activities so that the contributions that our grandparents have made may be appropriately recognized.

I urge each citizen to pause and to reflect on the influence his grandparents have had in shaping his own destiny, and on the legacy bestowed upon our contemporary society by his grandparents' generation.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4581 **August 8, 1978**

Fire Prevention Week, 1978

By the President of the United States of America

A Proclamation

Fire causes more loss of life and property in the United States than all other natural disasters combined. In the home, fire is the second most frequent cause of accidental death. Volunteer and professional firefighters bear a disproportionate burden of the human costs of fire; firefighting is still America's most hazardous profession.

Every year in this decade 7,500 U.S. citizens have died, 310,000 have been injured and more than $4 billion worth of personal property has been destroyed. America's fire incidents, casualties, and dollar loss per capita are among the very highest in the industrialized world.

As evidence of my strong personal concern about our fire problem, I have proposed a reorganization plan that would put the federal government's principal fire programs in a new Federal Emergency Management Agency. This agency would coordinate America's disaster preparedness, mitigation and response efforts. But the federal government cannot reduce America's fire losses by itself. The public and private sector—all individuals, organizations and governmental entities—must help. Together we can eliminate this unnecessary life-threatening destruction.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate October 8-14, 1978, as Fire Prevention Week.

Because fire deaths most often occur in homes, I call upon American families and other property owners to install smoke detectors, to practice exit drills, and to be especially vigilant in guarding against fires caused by cooking and fires caused by smoking materials, which cause the greatest number of fires and greatest proportion of losses in homes.

I support and encourage the cooperative efforts of private enterprise and government in developing low cost residential sprinkler systems and I urge commercial and government property owners to install sprinklers in both new and older buildings, especially those buildings in which large numbers of people gather.

I urge all agencies of Federal, state and local government involved in the planning and implementation of programs directed to finding solutions to such national concerns as energy conservation, environmental protection, and economic well-being to fully consider the effects of their programs on the fire safety of the environment in which Americans live and work.

I encourage the fire service, police, prosecutors, the insurance industry, and government to work together to remove incentives for arson, and to improve arson detection and prosecution so that we can begin to eliminate this costly, often life-threatening crime.

I urge officials in private industry and in government who are responsible for using or regulating hazardous materials to seek and implement measures to significantly reduce the possibility of life loss in the event of manufacturing, transportation, or storage accidents and to assist the fire services in preparing for such disasters should they occur.

Finally, I call upon the members of the Joint Council of National Fire Service Organizations, the National Fire Protection Association, all other organizations concerned with fire safety, and the National Fire Prevention and Control Administration to provide the leadership, planning, and innovation necessary for an effective national fire prevention and control effort.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4582 • **August 8, 1978**

General Pulaski's Memorial Day, 1978

By the President of the United States of America

A Proclamation

One hundred and ninety-nine years ago, the Polish patriot Casimir Pulaski gave his life fighting for freedom in the American Revolution.

General Pulaski, an exile from his native Poland, arrived in 1777 to join the Revolutionary Army. He fought courageously at Brandywine and in other battles, and he formed and commanded the famous cavalry unit, the Pulaski Legion, which fought nobly in the cause of American independence.

General Pulaski died on October 11, 1779 of wounds received in the Battle of Savannah two days earlier. Nearly two hundred years later we continue to pay tribute to him and to the millions of Americans of Polish descent who have played such an important part in founding our country, making it grow, and preserving its ideals.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Wednesday, October 11, 1978, as General Pulaski's Memorial Day and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

I also invite the people of the United States to honor the memory of General Pulaski by holding appropriate exercises and ceremonies in suitable places throughout our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4583 **August 8, 1978**

White Cane Safety Day, 1978

By the President of the United States of America

A Proclamation

For the more than six million Americans who suffer severe visual impairment, merely crossing the street may be a harrowing experience. This is especially true for the one-half million of our citizens who are legally blind and whose skill and resolve are tested daily in the traffic of our busy cities.

For such people, the white cane is an invaluable tool with which they can move about confidently and, most important, independently. Because the white cane is deceptively simple, many of us do not realize that special training and skill are required to use it effectively and safely. The cane is not a crutch but serves much as an extension of its user, providing assurance that the path ahead is clear and safe.

For the sighted, the white cane should serve as a reminder of the special needs of the visually handicapped person and of the importance of exercising simple courtesies which may otherwise be overlooked in haste. Observing the pedestrian's right-of-way in a crosswalk is a basic rule of traffic safety which has extra importance to the visually handicapped person who cannot see a vehicle's approach. For the sighted pedestrian, even a gesture as simple as offering to accompany a visually handicapped person across a busy intersection can make the difference between a safe crossing and a hazardous one.

To heighten public awareness of the importance of the white cane to the independence and safety of thousands of blind and visually handicapped Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d), has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1978, as White Cane Safety Day.

On this occasion, let us all recognize the achievements of those who have overcome visual disability and blindness to lead independent, productive, and fulfilling lives. At the same time, let us all resolve to increase our awareness of the needs of visually handicapped people and observe those courtesies which enable them to move about safely and without needless constraint.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America, the two hundred and third.

JIMMY CARTER

Proclamation 4584 • **August 8, 1978**

National Aviation Year and Wright Brothers Day, 1978

By the President of the United States of America

A Proclamation

This year, 1978, is the diamond jubilee anniversary of aviation. Seventy-five years ago on December 17, at Kitty Hawk, North Carolina, the Wright Brothers launched man into the age of powered flight. The magnitude of the heritage of Orville and Wilbur Wright is heroic. The significance of their achievement to men and women everywhere is profound.

At 10:30 in the morning on that cold and windy day Orville, aboard his fragile "Wright Flyer," was driven aloft by a four cylinder, 12 horsepower engine also ingeniously fashioned by the two brothers. This first successful flight in a heavier-than-air powered aircraft lasted but 12 seconds and covered a distance of only 120 feet.

In the seventy-five years since that historic flight, the science of aeronautics and the prowess of American industry have combined to make aviation a giant among the Nation's transportation and communications systems. Air transportation has become the prime public carrier between American cities and to international points. And the movement of cargo, especially perishable goods, life saving pharmaceuticals and other high-priority items important to the public welfare and commerce, has become largely dependent upon the speed, efficiency and safety of air transport.

Aviation today is one of America's greatest enterprises and among its largest employers; a major contributor in the social and cultural enhancement of the American public and, in the international arena, an instrument of signal importance in the deterrence of aggression and as a mighty defender of peace.

THEREFORE, in this 75th anniversary year of powered flight, I, JIMMY CARTER, President of the United States of America, do hereby designate the year 1978, diamond jubilee anniversary of powered flight, as National Aviation Year. And further,

To commemorate the historic achievements of the Wright Brothers, the Congress, by joint resolution of December 17, 1963 (77 Stat. 402, 36 U.S.C. 169), designated the seventeenth day of December of each year as Wright Brothers Day and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby call upon the people of this Nation, and their local and national government officials, to observe Wright Brothers Day, December 17, 1978, with appropriate ceremonies and activities, both to recall the accomplishments of the Wright Brothers and to provide a stimulus to aviation in this country and throughout the world.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4585 **August 17, 1978**

National Hispanic Heritage Week, 1978

By the President of the United States of America

A Proclamation

The Hispanic heritage of 16 million Americans is an essential part of our identity as a nation, and of our role as a leader among nations. As we reflect upon the countless historical, cultural, and scientific contributions that Hispanics have made to the development of our country, I want to reaffirm my commitment to ensuring the full participation of our Hispanic citizens in all levels of our society and government.

Americans have had a unique opportunity to appreciate the values of a broad diversity of cultures and the contribution each makes to our democratic and pluralistic society.

As we reach beyond our national borders to advocate the cause of human rights, we must increasingly look to our own Hispanic community as one of our primary sources of advice and counsel, particularly in the development of our relations with other nations of the western hemisphere.

Our Hispanic community is an integral element in the domestic life of our own nation, as well as in our continuing international effort to build understanding, mutual respect, and common purpose with all Hispanic nations.

In recognition of our Hispanic heritage, the Congress, by joint resolution approved September 17, 1968 (36 U.S.C. 169f), has requested the President to issue annually a proclamation designating the week including September 15 and 16 as National Hispanic Heritage Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week beginning September 10, 1978, as National Hispanic Heritage Week. I call upon all Americans to take this occasion to reflect on the influence of Hispanic culture in our land, and to consider how each of us can be more responsive to the concerns of Hispanics.

As we observe National Hispanic Heritage Week with appropriate ceremonies and activities, I call upon all Federal, State and community agencies, all business and professional leaders, educators, the clergy, and the communications media to join with me in launching new Hispanic initiatives that will assure the full participation of Hispanic Americans in every sector of American life, at every level of leadership, and guarantee that the human and civil rights of Hispanics, other minorities and, indeed, all citizens of our country are fully protected under the law.

As part of this week's activities I have asked many of my Hispanic appointees to hold town meetings in areas of concentrated Hispanic population. These meetings will help define the problems and concerns shared by Hispanics across our nation.

The role of Hispanics is ever increasing and offers our Hispanic citizens—the fourth largest Spanish-speaking population in the world—an increasingly active and visible leadership.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4586 • **August 17, 1978**

Columbus Day, 1978

By the President of the United States of America

A Proclamation

Nearly five centuries ago an Italian navigator in the service of Spain gazed beyond the wisdom of his time and sailed west to rap at the portals of the New World. Yearly, in gratitude, we celebrate this incomparable achievement of Christopher Columbus. We honor too the courage, self-sacrifice, and perseverance that propelled him on that voyage.

These qualities can fairly be held as a standard for the people of the United States of America. When they have been foremost in our spirit, they have produced the finest moments in the history of our Republic. Let us continue to hold them fast so that we may always be open to new wisdom, but courageous and persevering in defense of the ideas we hold dear.

On October 9 we again honor the memory of Christopher Columbus and the ever-young promise of the New World.

36 USC 146.
5 USC 6103 and note.

In tribute to his achievement, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), asked the President to proclaim the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Monday, October 9, 1978, as Columbus Day. I invite the people of this Nation to observe that day in their schools, churches, and other suitable places with appropriate ceremonies to commemorate his great adventure.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4587 • **August 17, 1978**

Child Health Day, 1978

By the President of the United States of America

A Proclamation

On this, the 50th anniversary of the first Child Health Day, it is appropriate to reaffirm our strong commitment to the health and well-being of our Nation's children. Our children are our future. We all bear responsibility for assuring that they are as healthy as the healing arts permit.

After 50 years, barriers to child health care persist. The problems are now more social than technological: unequal distribution of medical personnel, inadequate access to medical services, and continuing diet problems still plague our poorer families. Despite a dramatic reduction in our infant mortality rate in recent decades, children in some parts of the country still suffer far more than children elsewhere. This geographic inequity persists to adulthood and these same areas generally have a higher percentage of handicapped individuals as well as higher infant and child mortality rates.

We need to nurture all our children. Until mothers and children throughout the nation have equal access to comprehensive health care we can't claim to have met our responsibilities.

This is particularly important for youngsters who suffer physical, emotional or developmental handicaps. Adequate research and rehabilitative programs are essential for these children but all children need our vigilant concern. Ultimately, our goal is a nation of vibrantly healthy youngsters, psychologically and physically fit to meet any future demand.

In 1979 the United States will join other nations in observing the United Nations International Year of the Child. This will provide a chance to focus world attention on the special needs of children. Let us make this a significant year of progress in our own Nation so that we set an example for all others.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Monday, October 2, 1978, as Child Health Day. I am asking all the citizens of this Nation at home and abroad to unite with me in pledging our support of activities which provide for every child the promotion of health, accessible comprehensive health care services, physical and mental recreation, and the extension of cultural traditions.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4588 • **August 18, 1978**

National Lupus Week, 1978

By the President of the United States of America

A Proclamation

Five hundred thousand Americans suffer from Lupus erythematosus, an increasingly prevalent disease of the connective tissue. There are an estimated 50,000 new victims each year, mostly young women.

In the systemic form, lupus can affect almost any part of the body and create abnormalities in the skin, joints, kidney, heart, or other internal organ. Lupus is often fatal but even if not, its victims still endure pain and anguish.

We have made progress in understanding lupus in the last few years. Thousands of sufferers can look forward to improved treatment and the opportunity to live more productive and happier lives. Today's outlook is far from bleak, but we still need new research and alternative approaches to treatment and diagnosis if we are to eliminate lupus as a cause of human suffering and to improve life for its victims.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of September 17 through September 23, 1978 as National Lupus Week. I invite the Governors of the States, the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to provide the necessary assistance and resources to discover the cause and cure of lupus erythematosus and the other rheumatic diseases and to alleviate the suffering of all persons struck by these disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4589 • **August 21, 1978**

International Literacy Day, 1978

By the President of the United States of America

A Proclamation

Throughout our history, the United States has stood for the protection and promotion of human rights for all peoples. Central to these concerns are the political, social, and economic rights of all human beings. Our dedication to these rights stems from the belief that all people should be allowed to live their lives to the fullest of their capabilities, that the talent and character given each person by God should not be wasted.

Education is one of the most important gifts our society can give to its people in helping them fulfill their human potential. Especially in our modern world, adequate communication skills are essential. Education and training to promote literacy are central to our efforts to improve the lives of all people, and guarantee their basic human rights. Every illiterate adult is an indictment of us all.

In our own nation, and in nations across the world, significant efforts have been made to advance literacy, and bring its benefits to every man and woman. Our concern and dedication to this cause have brought results, but there still remains great progress to be made. Around the world, eight hundred million people lack effective reading or writing skills.

For the past 12 years, the United Nations Educational, Scientific, and Cultural Organization has set aside September 8 as Literacy Day. The United States has always joined with other nations in recognizing the need to advance literacy among people everywhere, to promote our cherished human rights.

NOW, THEREFORE, I, JIMMY CARTER, President of the United Sstes of America, do hereby proclaim September 8, 1978, as International Literacy Day, and I call upon the people of the United States to assess and strengthen our commitment to eliminating illiteracy both at home and abroad, recognizing that in so doing we are helping people everywhere open a gateway to many other human rights as well.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4590 **August 25, 1978**

Women's Equality Day, 1978

By the President of the United States of America

A Proclamation

August 26, 1978, is the 58th anniversary of the adoption of the 19th Amendment to the Constitution guaranteeing that the right of United States citizens to vote shall not be denied or abridged by the Federal government or any state on account of sex.

This was the successful culmination of the struggle of the American Women's Suffrage movement. The right to vote, to participate in the process of framing the laws under which we all live, is fundamental. But it was only the first step in achieving full equality for women. The late Dr. Alice Paul realized this, drafted the Equal Rights Amendment in 1923 and had it introduced in Congress over a period of 49 years, until it passed on March 22, 1972.

Women have made substantial progress toward full equality in recent years, partly as a result of the national debate on the Equal Rights Amendment, which has made many people aware of existing injustices. Despite this progress, strong action is still needed to guarantee women full equality of opportunity.

I personally believe that ratification of the Equal Rights Amendment can be the single most important step in guaranteeing all Americans—both women and men—

their rights under the United States Constitution. This major step toward full equality for women has already been taken by 35 states, representing seventy-two percent of the population of this Nation. Only three more states must ratify the Equal Rights Amendment before it becomes a part of the Constitution. I believe this is too important and far-reaching an issue for arbitrary time barriers to limit full debate and an ultimate decision that truly reflects the will of the American people. In a society that is free, democratic and humane, there can be no time limit on equality.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim August 26, 1978, as Women's Equality Day and do hereby call upon the people of the United States to observe this day with appropriate ceremonies and activites. I further urge all our people to dedicate themselves anew to the goal of achieving equal rights for women under the law.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4591 • **September 1, 1978**

National Day of Prayer, 1978

By the President of the United States of America

A Proclamation

Our Nation, perhaps more than any other, has always held a special cognizance of the gifts of the Creator. We were founded upon a belief in, and reverence for, the liberty of the human spirit under God and the equality of all people before the Almighty. Regardless of our individual conceptions of the Divine, Americans have always sought from Providence the help and guidance necessary to live justly and to build a better world for all who share this planet.

Today we face challenges equal to any in our history. Few generations have been given such opportunities for good or ill on earth. We approach our responsibility confidently, but with sobering awareness that God's sea is very great, and our ship, infinitely small.

From time to time we should turn to the Almighty for help and guidance, as we have done throughout our Nation's two hundred and three years. In humility and reverence, we should pause from our daily activities to thank our Creator for the bountiful goodness that imbues our lives, and to ask for His blessing in the days ahead.

36 USC 169h.

Recognizing this, the Congress by joint resolution approved April 17, 1952 (36 U.S.C. 185; 66 Stat. 64) has called upon the President to set aside a suitable day each year as a National Day of Prayer.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Saturday, October 7, 1978, as National Day of Prayer. I ask all Americans to join with me on that day in asking God's help that we may see and understand our responsibilities and discharge them with wisdom, strength, and patience.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4592 • **September 5, 1978**

Leif Erikson Day, 1978

By the President of the United States of America

A Proclamation

Stories of brave men battling fearful odds fire our imaginations. We honor such men long after the memories of their adventures have been dimmed by time.

So it is with Leif Erikson. His original discovery and exploration of North America was the supreme achievement of a race of men who truly were the masters of the sea. His voyage enlarged mankind's horizons and pointed the way West for the others who were to follow.

Today we honor Leif Erikson, and in honoring him we also honor the human qualities of imagination, courage, and perseverance which characterize both his men of old and Americans of Scandinavian descent today.

As a mark of respect for the achievements of Leif Erikson and his followers, the Congress of the United States, by joint resolution approved September 2, 1964 (78 Stat. 849, 36 U.S.C. 169c), authorized the President to proclaim October 9 in each year as Leif Erikson Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Monday, October 9, 1978, as Leif Erikson Day and I direct the appropriate government officials to display the flag of the United States on all government buildings that day.

I also invite the people of the United States to honor the memory of Leif Erikson on that day by holding appropriate exercises and ceremonies in suitable places throughout our land.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4593 • **September 7, 1978**

National Employ the Handicapped Week, 1978

By the President of the United States of America

A Proclamation

Our country's greatest resource is its people—including those with physical and mental disabilities.

But handicapped individuals too often have had to exist on the sidelines of life because of poor education, improper vocational preparation, unavailable transportation, inaccessible buildings and other difficulties.

Now, however, local, state and Federal laws and regulations are beginning to ensure equal rights to the disabled, so that they will no longer be second-class citizens. All offices of the Federal government have been directed to improve hiring and promotion practices as they relate to handicapped individuals. The private sector, too, is being made more aware of its duties and responsibilities.

To affirm our commitment to handicapped individuals, the Congress, by joint resolution of August 11, 1945, as amended (36 U.S.C. 155) has called for the designation of the first week in October of each year as National Employ the Handicapped Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning October 1, 1978, as National Employ the Handicapped Week. I urge all Governors, Mayors, other public officials, leaders in business and labor, and private citizens at all levels of responsibility to help secure full employment rights for handicapped individuals and to remove all barriers that prevent their full participation in every aspect of our national life.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

Proclamation 4594 • **September 8, 1978**

National School Lunch Week, 1978

By the President of the United States of America

A Proclamation

Every child needs wholesome food. The National School Lunch Program was created in 1946 to help our nation achieve that goal. It now provides nutritious lunches to 26 million children every school day.

I am proud of the success of the National School Lunch Program and of the two other nutrition-related school activities that complement its success.

One is the School Breakfast Program that now serves 2.8 million children daily. It gives all children, not just the needy, the chance to eat breakfast at school if they cannot eat at home.

The other is the Nutrition Education and Training Program that will instruct children, teachers, and school food service workers on the relationship between food, nutrition, and health.

In recognition of the National School Lunch Program's contribution to America's youth, the Congress, by a joint resolution of October 9, 1962 (76 Stat. 779; 36 U.S.C. 168), has designated the week beginning the second Sunday of October of each year as National School Lunch Week, and has requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby urge the people of the United States to observe the week of October 8, 1978, as National School Lunch Week and to give special recognition to the role of good nutrition in building a stronger America through its youth.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4595 • **September 11, 1978**

Veterans Day, 1978

By the President of the United States of America

A Proclamation

Among the great days of national remembrance, none is more deeply moving to Americans than Veterans Day. On this occasion, our nation traditionally joins together to salute those valiant individuals who have served in the Armed Forces.

This is a very special day. It symbolizes the debt of gratitude we owe our veterans. It reminds us that the freedom we enjoy has endured intact because millions of patriotic men and women answered their country's call to service and sacrifice.

Our veterans have not sought glory for themselves, but peace and freedom for us all. They represent the spirit that has preserved us as a great nation. They deserve our recognition for all they have done.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, invite all Americans to observe Saturday, November 11, 1978, as Veterans Day and on this historic occasion, let us resolve anew to keep faith with those whose love of country has set them in an imperishable roll of honor.

I urge all the families and friends of our sick and disabled veterans to visit them and extend to them a grateful nation's promise that they will not be forgotten.

I call upon Federal, State, and local Government officials to mark Veterans Day by displaying the flag of the United States, and by encouraging and supporting public involvement in appropriate ceremonies throughout the country.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of September, in the year of our Lord, nineteen hundred and seventy-eight, and of the Independence of the United States of America, the two hundred and third.

JIMMY CARTER

Proclamation 4596 • **September 15, 1978**

National Port Week, 1978

By the President of the United States of America

A Proclamation

Since the days of its early settlement, the United States has been dependent on water transportation for its trade. Populations tended to locate around harbors, which rapidly became the economic centers of the New World. Now there are some 170 commercial seaports in this country, as well as numerous inland ports on our navigable inland waterways. The result has been the creation of a network of ocean and inland ports that includes many of the country's most important centers of industry, distribution, finance, and education.

Ports provide the vital link between land and water carriers. The port industry contributes enormously to the Nation's economy. It facilitates international trade, employs significant numbers of people, provides substantial personal and business incomes, and generates revenues for State and local governments.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in order to remind Americans of the importance of the port industry of the United States to our national life, do hereby designate the seven calendar days beginning September 17, 1978, as "National Port Week." I invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, 1978, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States the two hundred and third.

JIMMY CARTER

Proclamation 4597 • **September 19, 1978**

United Nations Day, 1978

By the President of the United States of America

A Proclamation

The founding of the United Nations, on October 24, 1945, was an historic attempt to establish a framework for international cooperation.

The nations of the world now face such tasks as maintaining international peace and security; promoting basic human rights; building a better international economic order; and allocating fairly the globe's natural resources. The United Nations and its affiliated agencies bring together representatives of all nations to work together toward these goals. It holds out the vision of a truly cooperative world—a world at peace.

As one of its founding members, as its leading contributor, and as its host country, the United States feels a special pride in the Organization's accomplishments.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Tuesday, October 24, 1978, as United Nations Day.

I have appointed Clifton C. Garvin, Jr., to be United States National Chairman for United Nations Day.

I urge Americans to become better acquainted with the institutions that make up the United Nations, to consider its role in addressing the problems of global interdependence, and to help it resolve the array of critical international issues that face us in these times.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

EDITORIAL NOTE: The President's statement of Sept. 19, 1978, on signing Proclamation 4597, is printed in the Weekly Compilation of Presidential Documents (vol. 14, p. 1540).

Proclamation 4598 • **September 20, 1978**

National Guard Day, 1978

By the President of the United States of America

A Proclamation

Three hundred and forty-two years ago, the First Militia Regiment of the Massachusetts Bay Colony was organized to enable the colonists to defend themselves and their settlement. That step toward citizen self-defense was the beginning of our National Guard, the oldest military organization in the United States.

Over those three centuries, names have changed—Militia, State Troops, State Volunteers, and, finally, the National Guard—but the spirit of the citizen-soldier has been constant. It is exemplified by those who stand prepared to leave their civilian occupations, don the uniform of their Country, and serve their States and their Nation when the need arises.

In time of war, the Guard is always ready to serve. At King's Mountain, the Meuse-Argonne, Bataan, Omaha Beach, and the Iron Triangle, during the Berlin Airlift and Vietnam, the Guard has served in every major conflict in which this country has engaged.

When disaster strikes in time of peace, the Guard is equally ready to serve—as it has, in recent years, at Johnstown, Texas City, and in the wake of Hurricane Agnes.

In recognition of the debt of gratitude owed by the people of the United States to those who serve as members of the National Guard, the Congress has authorized and requested the President to issue a proclamation designating October 7, 1978, as National Guard Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to celebrate Saturday, October 7, 1978, as National Guard Day and to honor the Army and Air National Guard of the United States for service to their communities, to their States and to their Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4599 • **September 21, 1978**

National Forest Products Week, 1978

By the President of the United States of America

A Proclamation

When we Americans stop to reflect about our wealth of natural resources and the benefits they bestow, we quickly realize the worth of our Nation's forests. One-third of our land, some 740 million acres, is forested, and we get a wide range of essential products from many of these forests. Trees become houses to shelter us, books to convey our thoughts, packaging to protect our food energy to power our factories or heat our homes.

A forest can be many things at the same time. With sound management, we need never fear running out of trees. A forest is a renewable resource. But for all its powers of regeneration, a forest is not invulnerable. If we use it unwisely or wastefully, it can disappear. If we ignore the diverse needs of our people, the forests will cease to preserve the natural watersheds, to provide a home for wildlife or a wilderness where our people can renew their spirits. Many of the earth's problems today are the result of generations of destructive deforestation that has left lands barren and wasted. We must make sure that man's works lie gently on our land, so that we may leave for future generations a richer, more abundant, more beautiful land than we inherited.

Research is helping to show the ways to get as much usable material as possible from each harvested tree, finding better methods for protecting wood products so they last longer and developing ways to recycle used wood into new products. Our scientists are also finding ways to make trees grow faster, and to protect the forest from its natural enemies of fire, insects, and disease.

The Congress has designated the third week of October in each year as National Forest Products Week to remind us of the importance of forests in our national life.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of October 15 through 21, 1978, as National Forest Products Week and ask all Americans to reflect upon the value of our forests.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4600 • **September 21, 1978**

Temporary Staged Reduction of Rates of Duty on Certain Products

By the President of the United States of America

A Proclamation

1. The President has determined, pursuant to section 101(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2111(a)), that certain existing duties of the United States are unduly burdening and restricting the foreign trade of the United States and that one or more of the purposes of the Trade Act would be promoted by entering into the trade agreement with India identified in the fifth recital of this proclamation.

2. Pursuant to section 131(a) of the Trade Act (19 U.S.C. 2151(a)), the President, on January 14, 1975, published and furnished the United States International Trade Commission (USITC) with lists of articles which may be considered for modifications or continuance of the existing United States duties, continuance of United States duty-free or excise treatment, or additional duties, in the negotiation of trade agreements, including the trade agreement with India identified in the fifth recital of this proclamation. The USITC, after holding public hearings, has advised the President with respect to each such article of its judgment as to the probable economic effect of such modifications of duties on industries producing like or directly competitive articles and on consumers.

3. Pursuant to section 133 of the Trade Act (19 U.S.C. 2153) and in accordance with section 4(c) of Executive Order No 11846 of March 27, 1975, the Special Representative for Trade Negotiations designated the Trade Policy Staff Committee to afford an opportunity, through public hearings and other means, for any interested person to present his views concerning any article on the lists identified in the second recital of this proclamation or any other matter relevant to the trade agreement negotiations, including the negotiation of the trade agreement with India identified in the fifth recital of this proclamation. The Trade Policy Staff Committee has furnished the President with a summary of its hearings.

19 USC 2111 note.

4. Pursuant to section 132 of the Trade Act (19 U.S.C. 2152) the President has received information and advice with respect to the trade agreement with India identified in the fifth recital of this proclamation, from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the Special Representative for Trade Negotiations, and from such other sources as the President has deemed appropriate.

5. Pursuant to section 101(a) of the Trade Act (19 U.S.C. 2111(a)), the President, through his duly empowered representative, on July 26, 1978, entered into a temporary trade agreement with India pursuant to which United States rates of duty on certain products would be temporarily modified, as hereafter proclaimed and as provided for in the Annexes to this proclamation, in exchange for certain measures which will benefit United States exports to India.

6. In order to implement the trade agreement referred to in recital 5 of this proclamation it is necessary to modify the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) as provided for in the Annexes to this proclamation, attached hereto and made a part hereof.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including sections 101, 109, and 604 of the Trade Act (19 U.S.C. 2111, 2119 and 2483), do proclaim that—

(1) Part 2 of the Appendix to the TSUS is modified as provided in Annexes I and II to this proclamation.

(2) Each of the temporary modifications to the Appendix of the TSUS made by this proclamation shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after October 1, 1978, and each such modification will continue in force until it is superseded by a permanent modification of the appropriate provision in schedule 1, 3, 4, or 5 of the TSUS proclaimed pursuant to multilateral negotiations under the General Agreement on Tariffs and Trade.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

ANNEX I

Part 2 of the Appendix to the Tariff Schedules of the United States is modified by inserting the following new subpart C immediately following subpart B:

Item	Article	Rates of Duty	
		1	2
	Subpart C.—Reduced Duties, Pursuant to Temporary Trade Agreements		
946.02	Frog meat (except meat offal), fresh, chilled, or frozen (provided for in item 106.60)	Free	No change
946.14	Mangoes, prepared or preserved (provided for in item 147.96)	2.3¢ per lb.	No change
	Yarns and roving, of jute:		
	Singles:		
946.42	Measuring under 720 yards per pound (provided for in item 305.20)	4.5% ad val.	No change
946.44	Measuring 720 yards or over per pound (provided for in item 305.22)	8% ad val.	No change
946.46	Plied, measuring under 720 yards per pound (provided for in item 305.28)	7% ad val.	No change
946.50	Woven fabrics, wholly of jute, bleached, colored, or flame resistant (provided for in item 335.50)	1% ad val.	No change
946.52	Webbing of jute (provided for in item 347.30)	11% ad val.	No change
	Floor coverings of pile or tufted construction, of textile materials, in which the pile was inserted or knotted during weaving or knitting:		
	With pile hand-inserted or hand-knotted:		
	With not over 50 percent by weight of the pile being hair of the alpaca, guanaco, huarizo, llama, misti, suri, or any combination of these hairs:		
946.54	Valued over 66⅔ cents per square foot, with not over 160 knots per square inch (provided for in item 360.15)	8% ad val.	No change
946.56	With pile not hand-inserted and not hand-knotted, of coir (provided for in item 360.35)	3.6¢ per sq. ft.	No change
946.58	Bags and sacks, or other shipping containers, of vegetable fibers, except cotton, not bleached, not colored, and not rendered nonflammable (provided for in item 385.45	Free	No change
946.60	Pile matting and pile mats, of coir (not including floor coverings) (provided for in item 385.95)	4.2¢ per sq. ft.	No change

ANNEX I—Continued

Item	Article	Rates of Duty 1	Rates of Duty 2
946.62	Opium (provided for in item 435.70) ...	Free	No change
	Mica, cut or stamped to dimensions, shape, or form, whether or not perforated or indented, and whether or not dedicated to a specific use:		
946.64	Not over 0.006 inch in thickness (provided for in item 516.71)	8% ad val.	No change
946.66	Over 0.006 inch in thickness and perforated or indented (provided for in item 516.76	9.5% ad val.	No change
946.68	Articles not specially provided for, of mica (provided for in item 516.94)	9.5% ad val.	No change

ANNEX II

Staged-rate Modification of the Tariff Schedules of the United States

Each rate in the following table, for an item in the Appendix to the Tariff Schedules of the United States (TSUS) identified therein, is inserted in column numbered 1 in such item, effective for articles provided for therein which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of the column in which such rate is set forth and, except for rates in the final column, such rate shall be superseded by the rate for that item in the immediately following column, effective for articles which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of such latter column:

Item in TSUS as Modified by Annex I	Rates of duty, effective on and after October 1.— 1978	1979	1980	1981
946.02	Free	Free	Free	Free
946.14	2.3¢ per lb.	1.5¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
946.42	4.5% ad val.	3% ad val.	3% ad val.	3% ad val.
946.44	8% ad val.	5% ad val.	4.4% ad val.	4.4% ad val.
946.46	7% ad val.	4% ad val.	4% ad val.	4% ad val.
943.50	1% ad val.	1% ad val.	1% ad val.	1% ad val.
946.52	11% ad val.	8% ad val.	5.6% ad val.	5.6% ad val.
946.54	8% ad val.	8% ad val.	8% ad val.	8% ad val.
946.56	3.6¢ per sq. ft.	2.2¢ per sq. ft.	2¢ per sq. ft.	2¢ per sq. ft.
946.58	Free	Free	Free	Free
946.60	4.2¢ per sq. ft.	3.4¢ per sq. ft.	2.6¢ per sq. ft.	2¢ per sq. ft.
946.62	Free	Free	Free	Free
946.64	8% ad val.	5% ad val.	4.4% ad val.	4.4% ad val.
946.66	9.5% ad val.	6.5% ad val.	5% ad val.	5% ad val.
946.68	9.5% ad val.	6.5% ad val.	5% ad val.	5% ad val.

Proclamation 4601 • **September 22, 1978**

National Good Neighbor Day, 1978

By the President of the United States of America

A Proclamation

As our Nation struggles to build friendship among the peoples of this world, we are mindful that the noblest human concern is concern for others.

Understanding, love, and respect build cohesive families and communities. The same bonds cement our Nation, and the nations of the world.

For most of us, this sense of community is nurtured and expressed in our neighborhoods where we give each other an opportunity to share and feel part of a larger family.

In recognition of the importance of fostering compassion and respect in ourselves for our neighbors, the Congress has requested the proclamation of September 24, 1978, as National Good Neighbor Day (S.J. Res. 133).

Ante, p. 754.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Sunday, September 24, 1978, as National Good Neighbor Day.

I call upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

Proclamation 4602 • **September 27, 1978**

National Farm-City Week, 1978

By the President of the United States of America

A Proclamation

The interdependence of farms and cities is one of the basic strengths of the Nation.

Farm people and city people have long been partners in economic and social progress. Their partnership in the use of land, labor and capital is essential if this country is to have a continuing and adequate supply of safe, wholesome food and an abundance of goods and services and reasonable prices.

To achieve a better mutual understanding of the interdependence that farm and city people bring to one another, and for the strength, well-being and benefit of all Americans, our Nation has traditionally set aside one week in November as Farm-City Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the period November 17 through November 23, 1978, as National Farm-City Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

Proclamation 4603 • **September 28, 1978**

American Education Week, 1978

By the President of the United States of America

A Proclamation

Our founders assumed that an educated electorate was essential to a strong, healthy democracy. Freedom of speech, thought and inquiry are part of the basic structure of our society, and we share a fundamental belief that education can provide the key to overcoming all our problems. We have come a long way toward providing access to schools for all our people, and we provide enormous resources for education. We can be proud of that progress, as we are proud of the progress of many of our students, both youngsters and adults. But we must also recognize that many young Americans still emerge from our schools inadequately prepared to take up the responsibilities of adult life. Others have not been sufficiently challenged to develop their full potential.

Teaching has never been easy, and inspiring students is more difficult still. Perhaps it is even harder today than in the past, but it is no less crucial to the well-being of our people and of our society.

The theme of this year's American Education Week, "Education Can Turn Things Around," expresses our faith in the power of education. We expect our teachers to provide the skills, knowledge and background for understanding that will allow all Americans to make the best use of their God-given abilities. If they are to succeed, we must support these goals for human achievement in all aspects of our society. We can do this by placing our priorities and our emphasis on the lasting instead of the trivial, by rewarding quality and accomplishment, by respecting true knowledge, by raising important questions and seeking honest answers, by valuing and nurturing the capabilities of every human being.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning November 12, 1978, as American Education Week.

It is appropriate that we honor what is right and good in education in America today—the dedicated, searching teachers who demand much of themselves and their students, who push beyond failure and discouragement to light the spark of understanding. It is appropriate, also, to recognize our responsibility as parents, grandparents, neighbors and citizens, to support the efforts of our schools to meet our high expectations, so that now and in generations to come our people may become a truly educated people.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

Proclamation 4604 • **October 2, 1978**

Termination of Increased Rates of Duty on Certain Ceramic Tableware

By the President of the United States of America

A Proclamation

19 USC 1202 note.
19 USC 1202.

1. By Proclamation No. 4125 of April 22, 1972, the President proclaimed increased duties on certain types of ceramic tableware that are defined in items 923.01 through 923.15 of the Tariff Schedules of the United States (TSUS). These increased duties were to be effective from May 1, 1972, through April 30, 1976, unless modified or terminated earlier. This action was taken under the following legal provisions: section 350(a)(1)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(1)(B)); and sections 201(a)(2), 302(a)(2) and (3), and 351(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(2), 19 U.S.C. 1902(a)(2) and (3), and 19 U.S.C. 1981(a)).

19 USC 1202.

2. By Proclamation No. 4436 of April 30, 1976, the President proclaimed the extension and modification of the increased rates of duty then in effect on imports of some of the articles of ceramic tableware provided for in items 923.01, 923.07, 923.13, and 923.15 of the TSUS. This was done under section 203(h)(3) of the Trade Act of 1974 (19 U.S.C. 2253(h)(3)).

3. I have determined, pursuant to section 203(h)(4) of the Trade Act of 1974 (19 U.S.C. 2253(h)(4)) and section 351(c)(1)(A) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(c)(1)(A)), after taking into account the advice of the U.S. International Trade Commission and after seeking the advice of the Secretaries of Commerce and Labor as required by those sections, that it is in the national interest to terminate the increased rates of duty currently in effect on imports of the articles of ceramic tableware now provided for in items 923.01, 923.07, 923.13 and 923.15 of the TSUS.

61 Stat. A58.
8 UST 1786.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including section 203(h)(4) of the Trade Act of 1974 (19 U.S.C. 2253(h)(4)) and section 351(c)(1)(A) of the Trade Expansion Act of 1962 (19 U.S.C. 1981(c)(1)(A)), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT), do proclaim that—

19 USC 1202 note.

(1) The modifications of tariff concessions on ceramic tableware provided for in items 533.28, 533.38, 533.73, and 533.75 in Part I of Schedule XX to the GATT made by Proclamations Nos. 4125 and 4436 are terminated;

19 USC 1202.
19 USC 1202.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified by deleting items 923.01, 923.07, 923.13, and 923.15, including the superior headings thereto;

(3) The modifications of Part I of Schedule XX to the GATT and of the Appendix to the TSUS made by paragraphs (1) and (2) hereof shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after the date of publication of this Proclamation in the Federal Register.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of October in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

Proclamation 4605 • **October 13, 1978**

National Jogging Day, 1978

By the President of the United States of America

A Proclamation

Millions of Americans have come to view jogging as an enjoyable, affordable, and effective way to keep in shape.

Most medical authorities agree with them, saying that a reasonable and regular program of jogging improves the heart, the circulatory system, and the lungs, while helping runners take off, or ward off, excess weight.

Everyone who has run knows that its most important value is in removing tension and allowing a release from whatever other cares the day may bring. It is a blessing to our Nation that so many of our people have rediscovered this simple pleasure.

By Joint Resolution (H.J. Res. 685) the Congress has designated October 14, 1978, as National Jogging Day. *Ante*, p. 1276.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby declare October 14, 1978, as National Jogging Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred seventy-eight and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER

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